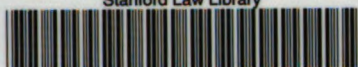

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THE LAWS OF TEXAS

1822-1897

Austin's Colonization Law and Contract; Mexican Constitution of 1824; Federal Colonization Law; Colonization Laws of Coahuila and Texas; Colonization Law of State of Tamaulipas; Fredonian Declaration of Independence; Laws and Decrees, with Constitution of Coahuila and Texas; San Felipe Convention; Journals of the Consultation; Proceedings of the General Council; Goliad Declaration of Independence; Journals of the Convention at Washington; Ordinances and Decrees of the Consultation; Declaration of Independence; Constitution of the Republic; Laws, General and Special, of the Republic; Annexation Resolution of the United States; Ratification of the same by Texas; Constitution of the United States; Constitutions of the State of Texas, with all the Laws, General and Special, passed thereunder, including Ordinances, Decrees, and Resolutions, with the Constitution of the Confederate States and the Reconstruction Acts of Congress.

COMPILED AND ARRANGED BY

H. P. N. GAMMEL
OF AUSTIN.

WITH AN INTRODUCTION BY C. W. RAINES.

VOLUME X.

AUSTIN:
THE GAMMEL BOOK COMPANY.
1898

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GENERAL LAWS
OF
THE STATE OF TEXAS

PASSED AT THE
REGULAR SESSION OF THE TWENTY-SECOND LEGISLATURE

CONVENED
AT THE CITY OF AUSTIN

JANUARY 13, 1891, AND ADJOURNED APRIL 13, 1891.



AUSTIN
1891

1—VOL. X.

1870

GENERAL LAWS OF TEXAS.

TWENTY-SECOND LEGISLATURE, 1891.

APPROPRIATION FOR MILEAGE AND PER DIEM PAY OF OFFICERS, MEMBERS AND EMPLOYES.

Sec.

1. \$90,000 appropriation for pay of members and employes of Twenty-second Legislature.

Sec.

2. How claims are audited.
3. Emergency clause.

CHAP. 1.—[H. B. No. 60.] An Act making an appropriation for the mileage and per diem pay of the members, and the per diem pay of the officers and employes of the Twenty-second Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas: That the sum of ninety thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of the money in the Treasury not otherwise appropriated, for the payment of mileage and per diem pay of members and per diem pay of officers and employes of the Twenty-second Legislature.

Sec. 2. The certificate of the Secretary of the Senate approved by the President thereof, or of the Chief Clerk of the House approved by the Speaker thereof, shall be sufficient evidence to the Comptroller upon which he shall audit the claims and issue his warrants upon the Treasurer for the respective amounts.

Sec. 3. And whereas, the Twenty-second Legislature is now in session and public policy requires their payment; therefore an imperative public necessity exists that the constitutional rule requiring bills to be read on three several days be suspended, and it is so suspended, and this act shall take effect from and after its passage.

[Note.—The foregoing act originated in the House, and passed the same by a two-thirds vote, yeas 104; and passed the Senate by a two-thirds vote, yeas 26.]
Approved January 20, 1891.

APPROPRIATION TO DEFRAY CONTINGENT EXPENSES.

Sec.

1. \$30,000 appropriated for contingent expenses of Twenty-second Legislature; auditing of claims.

Sec.

2. Emergency clause.

CHAP. 2.—[H. B. No. 61.] An Act making an appropriation to defray the contingent expenses of the Twenty-second Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas: That the sum of thirty thousand dollars, or so much thereof as may be necessary, is hereby appropriated, out of any money in the treasury not otherwise appropriated, to pay the contingent expenses of the Twenty-second Legislature; that (except in cases of accounts for printing done and stationery furnished) the certificate of the chairman of the com-

mittee on contingent expenses that an account has been examined and approved by said committee, and countersigned by the President of the Senate or Speaker of the House, as the case may be, shall be sufficient authority to authorize and require the Comptroller of public accounts to draw his warrant on the State Treasurer for the payment of any claim against said fund. The accounts for printing and stationery shall take the course prescribed by the Revised Statutes.

Sec. 2. The fact that it is important that the contingent expenses of the Legislature be promptly paid, creates an emergency and an imperative public necessity that the constitutional rule requiring that bills be read on three several days be suspended, and that this act take effect from its passage; it is so enacted.

[Note.—The foregoing act originated in the House, and passed the same by a two-thirds vote, ayes 104; and passed the Senate by a two-third vote, yeas 26.]

Approved January 20, A. D. 1891.

JUDICIAL DISTRICTS—SEVENTEENTH AND FORTY-EIGHTH. (TARRANT COUNTY.)

Sec.

1. Boundaries of the Seventeenth district; terms of court.
2. Boundaries of the Forty-eighth district; terms of court.
3. The courts to have concurrent jurisdiction in Tarrant county, juries to be drawn from body of county.
4. Judge of Seventeenth judicial district to continue as judge until expiration of term of office.
5. The Governor to appoint judge of Forty-eighth district; term of office.
6. Place of voting when election pre-

Sec.

- dict or city ward is situated partly in both judicial districts.
7. Clerk of district court to make up civil and criminal dockets; manner of docketing cases; garnishment and injunction cases; receivers; transfer of causes.
8. Process legalized.
9. Petition, how addressed.
10. Vacancy in office of clerk, how filled.
11. Repealing clause.
12. Emergency clause.

CHAP. 3.—[S. B. No. 70.] An Act to amend Section 1 of an act entitled: "An act to amend an act to amend an act entitled 'an act to redistrict the State into judicial districts and fix the times for holding court therein and to provide for the election of Judges and district attorneys in said districts at the next general election to be held on the first Tuesday after the first Monday in November 1884, approved April 9, 1883; approved March 24, 1885; to create the Forty-third Judicial District of the State of Texas, fix the times for holding court therein and to provide for the appointment of a district Judge for said district approved March 30, 1887; to create the Forty-eighth Judicial District of the State of Texas, fix the times for holding court therein, and to fix the times for holding court in the Seventeenth Judicial District of the State of Texas and to provide for the appointment of a district judge of the said Forty-eighth Judicial District.'"

Section 1. Be it enacted by the Legislature of the State of Texas: That Section 1, of the above recited act approved March 30, 1887, be so amended as hereafter to read as follows:

Section 1. All that part of Tarrant County lying south and west of the following line, viz: Beginning at the center of Trinity river at the point where said river leaves Tarrant county on its east boundary and enters Dallas County on its west boundary; Thence in a westerly direction with the middle line of said river to the point where said river is crossed by the eastern boundary of the M. A. Jackson survey, the same being the western boundary of the James Sanderson survey; thence south with the east line of said Jackson and west line of said Sanderson surveys to the center of the track of the Texas and Pacific Railway; thence westward with the center of said Railway track to the point where

it intersects the center of Main Street in the city of Fort Worth; thence north-erly with the center of Main Street to the center of the court house; thence north 30 degrees west to the intersection of the north boundary line of the A. Gouhe-naut survey; thence west with the north line of said Gouhenaut survey to its northwest corner; thence south to the center of Trinity river; thence westward with the center of said river to Silver creek; thence westward with the center of Silver creek to the west boundary of Tarrant County, shall constitute the Seven-teenth Judicial District, and the district court shall be begun and held therein as follows: On the second Mondays in January and September, and may continue in session until the business is disposed of.

Sec. 2. All that part of said Tarrant County lying north and east of the line as defined in the foregoing section of this act shall constitute the Forty-eighth Judicial District and the district court shall be begun and held therein as follows: On the second Monday in February and October, and may continue in session until the business is disposed of.

Sec. 3. The said district courts of the Seventeenth and Forty-eighth Judicial districts shall have concurrent jurisdiction throughout the limits of said Tarrant County, of all matters civil and criminal of which jurisdiction is given to the District Court by the Constitution and laws of the State; and grand and petit juries for said courts respectively shall be selected and drawn from the body of the county.

Sec. 4. That the Judge of the Seventeenth Judicial District as heretofore con-stituted shall continue as the Judge of the Seventeenth Judicial District as herein constituted, and until the expiration of the term of his office and until his suc-cessor shall be elected and qualified.

Sec. 5. Immediately after this act shall take effect, the Governor shall appoint a suitable person as Judge of the Forty-eighth Judicial District who shall hold said office until the next general election held for state and county officers, and until his successor shall be elected and qualified.

Sec. 6. If any election precinct as now or may be hereafter constituted in Tar-rant County or any ward as now or as may be hereafter constituted in any incor-porated city or town, now existing or hereafter to be formed in said county, shall be situated partly in each of said districts, then each voter thereof shall vote for the District Judge only of the district in which such voter resides.

Sec. 7. When this act shall take effect, the clerk of the district court of Tarrant county shall at the earliest practicable time, make up a civil docket and a criminal docket for each of said courts, by placing thereon alternately the cases civil and criminal, now pending in the district court of Tarrant county; that is, said clerk shall place the first civil case on the civil docket and the first criminal case on the criminal docket of the Seventeenth judi-cial district and the next civil case on the civil docket, and the next crim-inal case on the criminal docket of the Forty-eighth judicial district, and so on to the end of the dockets heretofore used, so that the business now pend-ing in the district court of Tarrant county, as heretofore constituted, shall be as equally divided between said courts as can by this method of division be ac-complished; and all cases, prosecutions and proceedings filed with said clerk after this act shall take effect, shall by him be entered upon the dockets of said courts alternately in the manner above indicated, so that the business may be equally distributed between said courts; provided that the reference above to a civil docket in the singular number shall be taken to embrace the vari-

ous civil dockets required by law to be used and kept by the clerk of the district court of Tarrant county when this act shall take effect, so as to make it incumbent upon said clerk, in dividing the civil business between said courts, as hereinbefore required to open for each court the number and kind of dockets heretofore kept by him and to enter upon each the cases belonging to the same.

Provided: That all garnishment cases shall follow the cases in which they are sued out and that such garnishment cases shall not be estimated by the clerk in dividing either existing or future business; and provided further: That in all injunctions granted by either of said judges, the suits wherein granted shall be docketed in the court of the judge who granted such injunctions, and in all cases wherein receivers may be appointed by either of said judges, the suit wherein such receivers shall be appointed shall be docketed in the court of the judge who appointed such receivers. Provided further, that either of said judges may in his discretion transfer any case or cases, civil or criminal pending in his court to the district court in said county other than that of which he is judge, by order or orders entered upon the minutes of the court; and it shall be the duty of each of said judges to transfer to the court other than that of which he is judge all cases which he is disqualified to try, unless the judge of such other district is also disqualified to try such cases, in which event such cases shall remain where docketed by the clerk, and a special judge to try the same shall be chosen by the attorneys or appointed by the Governor under the laws of the State governing the matter; and where such transfers are made the clerk of the district court of Tarrant county shall enter such case or cases upon the appropriate docket of the court to which such transfer shall be made.

Sec. 8. All process heretofore issued or served returnable to the district court of Tarrant county shall be considered returnable to the terms of the courts herein provided for in the same manner as if this act were in force when the same was issued, and all such process and service of process is hereby legalized and validated and given the same efficacy as though this act were in force when said process was issued or served.

Sec. 9. In causes filed in said county cognizable by the district court it shall be sufficient for the petition to state the court in which suit is filed as "The district court of Tarrant county," and it shall be sufficient to address the petition to "The district court of Tarrant county."

Sec. 10. In case of a vacancy by death, resignation or the removal of the clerk of the District court of Tarrant county his successor shall be appointed by the judge of the district in which said clerk, by the laws of the State was entitled to vote.

Sec. 11. That all laws and parts of laws in conflict with this act are hereby repealed.

Sec. 12. The crowded condition of the business of the district court of Tarrant county, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days, be suspended, and that this bill be placed upon its passage without being so read, and that this act take effect and be in force from its passage, and it is so enacted.

[Note.—The foregoing act originated in the Senate, and passed the same by a vote of 23 yeas, 1 nay; and passed the House by a vote of yeas 73, nays 8.]

Approved February 6, 1891.

RAILWAY COMPANIES—RELIEF OF.

Sec. 1. Time for construction and equipment extended; forfeited franchises restored.

2. Emergency clause.

CHAP. 4.—[S. B. No. 29.] An Act for the relief of railway companies having charters made or amended since January 1st, 1887, which have failed or are about to fail to comply with article 4278 Revised Statutes.

Section 1. Be it enacted by the Legislature of the State of Texas: That the time in which any railroad company chartered under the laws of this State since January 1st, 1887, or the charter to which has been amended since said date, is required to begin the construction of its road and construct, equip and put the same in good running order as to part of such road as provided for in article 4278 of the Revised Statutes of the State of Texas, and amended April 8, 1889, is and the same shall be extended until the 1st day of January A. D. 1893. And any railway company having been chartered since January 1st, 1887, or the charter to which has been amended since said date, which shall have forfeited its corporate existence, rights and powers, or is about to do so, by reason of failure to comply with said article 4278, or any part of said article, shall have restored and preserved to it its corporate existence, and it shall have and enjoy all of the corporate franchises property and rights and powers held or acquired by it previous to any cause of forfeiture on account of such failure as aforesaid.

Sec. 2. The fact that no good can result to the State from the forfeiture provided against in this act, and that the public convenience will be promoted by work, beginning at once on some of said railways, and that citizens in many parts of the State having invested in railway enterprises, saved from great loss unless the relief herein provided for be granted, create an emergency and an imperative public necessity authorizing the suspension of the constitutional rule, requiring bills to be read on three several days, and demanding that this act take effect and be in force from and after its passage and it is so enacted.

[Note.—The foregoing act originated in the Senate and passed the same by a vote of yeas 25, nays 1; and passed the House by a vote of yeas 88, nays none.]
Approved February 11, 1891.

CLERK DISTRICT COURT.

Sec.

1. Where there is more than one district court in a county, vacancy to be filled by appointment by the judges, when; bond; term of office.

Sec.

2. Special election to fill vacancy.
3. Emergency clause.

CHAP. 5.—[S. B. No. 241.] An Act to provide for the filling of vacancies in the office of clerk of the District Court in counties where there is more than one District Court.

Section 1. Be it enacted by the Legislature of the State of Texas: That whenever a vacancy exists, from any cause, in the office of clerk of the district court in any county in this State, where there is more than one district court the same shall be filled by appointment by the judges of such district courts of such county; and the clerk so appointed shall give bond and qualify in the same manner as if he had been elected; and shall hold his office until his successor is duly elected and qualified.

Sec. 2. The governor, upon the certificate of such district judges that such vacancy exists, shall order a special election to fill said vacancy.

Sec. 3. Whereas, a vacancy in the office of District clerk of Bexar county now exists and there is no law providing for the filling of such vacancy.

And whereas, the district courts of said county of Bexar are now in session and unable to transact business for want of a clerk, therefore, an emergency and imperative public necessity exists for the suspension of the constitutional rules requiring bills to be read on three several days and that this act shall take effect from and after its passage, and it is so enacted.

[Note.—The foregoing act originated in the Senate, and passed the same by a vote of yeas 24; nays none; and passed the House by a vote of yeas 92, nays none.]

Approved February 12, 1891.

NACOGDOCHES COUNTY—JURISDICTION OF COUNTY COURT RESTORED.

Sec.

1. Defines the original and concurrent jurisdiction of the county court.
2. Appellate jurisdiction of county court in civil cases.
3. Power to grant certain writs.
4. Forfeiture of bonds and recognizances.
5. Gives exclusive original jurisdiction of misdemeanors; exceptions; ap-

Sec.

- pellate jurisdiction in criminal cases.
6. Jurisdiction of District Court; district clerk to make transcripts of dockets; duty of county clerks.
7. Terms of county court held as provided by law; process.
8. Repealing clause.
9. Emergency clause.

CHAP. 6.—[H. B. No. 135.] An Act to restore to, and confer upon the County Court of Nacogdoches county the civil and criminal jurisdiction heretofore belonging to it under the Constitution and general laws of the State, and to conform the jurisdiction of the District Court of said county to such change.

Section 1. Be it enacted by the Legislature of the State of Texas: That the county court of Nacogdoches county shall hereafter have exclusive original jurisdiction in civil cases when the matter in controversy shall exceed in value two hundred dollars and shall not exceed five hundred dollars, exclusive of interest, and shall have concurrent jurisdiction with the District Court of said county when the matter in controversy shall exceed five hundred and not exceed one thousand dollars exclusive of interest.

Sec. 2. Said county court shall have appellate jurisdiction in civil cases over which the justices courts of said county have original jurisdiction, when the judgment of the court appealed from or the amount in controversy shall exceed twenty dollars, exclusive of costs; and have power to hear and determine cases brought up from the justices courts by certiorari, under the provisions of the law relating thereto.

Sec. 3. Said county court, or the judge thereof, shall have power and authority, either in term time or in vacation, to grant writs of mandamus, injunction, sequestration, attachment, garnishment, certiorari and supersedeas, and all other writs necessary to the enforcement of the jurisdiction of said court, and shall also have power to issue the writ of Habeas Corpus in all cases in which the constitution has not conferred the power on the District court or judge thereof.

Sec. 4. Said county court shall have jurisdiction in the forfeiture and judgment of all bonds and recognizances taken in criminal cases, of which criminal cases said court has original or appellate jurisdiction.

Sec. 5. Said county court shall have exclusive original jurisdiction of all misdemeanors, except the misdemeanors involving official misconduct, and except cases in which the highest penalty of fine that may be imposed under the law, may not exceed two hundred dollars; and said court shall also have appellate jurisdiction in criminal cases of which justices of the peace and other inferior tribunals of said county have original jurisdiction.

Sec. 6. The District Court of said county of Nacogdoches shall no longer have jurisdiction of cases of which the county court of said county, by the provisions of this act, have exclusive, original or appellate jurisdiction; and it shall be the duty of the District Clerk of said county, within thirty days after this act shall take effect, to make a full and complete transcript of all orders on the criminal and civil dockets in cases then pending before the District Court of said county, of which [cases by the provisions of this act, exclusive, original and appellate jurisdiction is given to the said county court, and to deliver said transcripts,] together with the original papers and a certified bill of costs in each case, to the county clerk of said county, and said county clerk shall take charge of said transcripts and papers, file the same, and enter said cases on their respective dockets for trial by said county court.

Sec. 7. The said county court of Nacogdoches county shall hereafter hold its regular terms for civil and criminal business as provided in the constitution and general laws of the State; and all process heretofore issued from the District Court of said county in cases to be transferred under this act to the said county court, that have not been returned to the District Court when this act shall go into effect, shall be returnable to the first term of said county court held thereafter, and all civil cases so transferred shall be entered as appearance cases upon the docket of said court.

Sec. 8. All laws in conflict with the provisions of this act are hereby repealed.

Sec. 9. The crowded condition of the dockets of the District Court of the said county of Nacogdoches, creates an emergency and imperative public necessity, that the rule requiring bills to be read on three several days in each house be suspended, and it is so suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act originated in the House, and passed the same by two-thirds vote—ayes 87, nays 0; and passed the Senate by two-thirds vote—ayes 27, nays 1.]

Approved February 16, 1891.

INSPECTION OF REFINED OILS.

- Sec. 1. Repeals act of April 5, 1889, for inspection of refined oils.
 2. Emergency clause.

CHAP. 7.—[H. B. No. 14.] An Act to repeal an act entitled An Act to provide for the inspection of refined Oils in which are the product of Petroleum, and which may be used for illuminating purposes within this State. And to regulate the sale and use thereof. And to provide penalties for violation of the same.

Section 1. Be it enacted by the Legislature of the State of Texas: That an act entitled an act to provide for the inspection of refined Oils, which are the product of petroleum and which may be used for illuminating purposes within this State, and to regulate the sale and use thereof, and to provide penalties for violation of the same" approved April 5th 1889, be and the same is hereby repealed.

Sec. 2. The fact that the people in many Sections of this State are often at great inconvenience in obtaining Oil for illuminating purposes, because of the operation of the law now in force, and the fact that an additional burden is imposed on the people of this State by the operation of said act, without any benefit accruing therefrom, creates an emergency, and imperative public necessity which requires that the constitutional rule requiring bills to be read on three several days be suspended, and it is so suspended, and this act shall take effect from and after its passage.

[Note.—The foregoing act originated in the House, and passed the same by two-thirds vote, ayes 80, nays 7; and passed the Senate by two thirds vote, ayes 22, nays 0.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the fourth day of February, A. D. 1891, and was not signed by him nor returned to the house in which it originated, with his objections thereto within the time prescribed by the constitution, and thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

JUDICIAL DISTRICT—FORTY-SIXTH.

- | | |
|---|---|
| <p>Sec.
 1. Terms of court in Forty-sixth judicial district.
 2. Cottle county is attached to Childress county for judicial purposes.</p> | <p>Sec.
 3. Repealing clause.
 4. Emergency clause.</p> |
|---|---|

CHAP. 8.—[S. B. No. 16.] An Act to prescribe the times for holding the terms of the District court in the Forty sixth Judicial district and to repeal all laws and parts of laws in conflict therewith.

Section 1. Be it enacted by the Legislature of the State of Texas: That the terms of the District court in the several counties comprising the Forty-sixth Judicial district of Texas, shall be held as follows:

In the county of Wilbarger on the first Mondays in February and August, and may continue in session five weeks.

In the county of Hardeman on the fifth Monday after the first Monday in February and August and may continue in session three weeks.

In the county of Greer, on the eighth Monday after the first Mondays in February and August, and may continue in session three weeks.

In the county of Childress, on the eleventh Monday after the first Monday in February and August, and may continue in session two weeks.

In the county of Collingsworth on the thirteenth Monday after the first Mondays in February and August, and may continue in session two weeks.

In the county of Hall on the fifteenth Monday after the first Mondays in February and August and may continue in session two weeks.

In the county of Donley on the seventeenth Monday after the first Mondays in February and August and may continue in session two weeks.

In the county of Armstrong on the nineteenth Monday after the first Mondays in February and August and may continue in session two weeks.

Sec. 2. The unorganized county of Cottle is hereby attached to Childress county for judicial purposes. The unorganized county of Briscoe is hereby attached to Donley county for judicial purposes.

Sec. 3. That all laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

Sec. 4. The time for holding courts in the Forty-sixth district as now arranged being insufficient, an imperative public necessity exists requiring and justifying the suspension of the constitutional rule that bills be read on three several days, and the same is hereby suspended.

[Note.—The foregoing act originated in the Senate, and passed the same by the following vote yeas 25, nays none; and passed the House of Representatives February 14, 1891.]

Approved February 17, 1891.

JUDICIAL DISTRICTS—THIRTY-SEVENTH AND FORTY-FIFTH (BEXAR COUNTY.)

Sec.

1. Terms of court in Thirty-seventh district.
2. Terms of court in Forty-fifth district.

Sec.

3. Writs returnable to terms herein prescribed.
4. Repealing clause.
5. Emergency clause.

CHAP. 9.—[S. B. No. 129.] An Act to prescribe the time of holding the District court in the Thirty seventh and Forty fifth Judicial Districts, embracing the county of Bexar.

Section 1. Be it enacted by the Legislature of the State of Texas: That the District court in the Thirty seventh Judicial district shall be holden as follows:

On the first Monday in October and may continue in session ten weeks; on the eleventh Monday after the first Monday in October and may continue in session ten weeks; on the twenty second Monday after the first Monday in October and may continue in session seven weeks; and on the thirtieth Monday after the first Monday in October and may continue in session seven weeks.

Sec. 2. That the district court in the Forty fifth Judicial district shall be holden as follows:

On the first Monday in October and may continue in session seven weeks; on the eighth Monday after the first Monday in October, and may continue in session seven weeks; on the sixteenth Monday after the first Monday in October, and may continue in session ten weeks; and on the twenty-seventh Monday after the first Monday in October and may continue in session ten weeks.

Sec. 3. That all writs and process issued and made returnable to the terms of said courts under the law in force at the issuance thereof, shall be returnable to the terms of said courts as herein prescribed and shall be as valid as if no change had been made in the return day thereof.

Sec. 4. That all laws and parts of laws in conflict with the provisions of this act shall be and the same are hereby repealed.

Sec. 5. The present inconvenience caused by the appearance day in the Thirty-seventh and Forty fifth districts occurring on the same day creates an emergency and an imperative public necessity requiring the constitutional rule for bills to be read on three several days to be suspended and said rule is hereby suspended and this act shall take effect and be in force from and after its passage and it is so enacted.

[Note.—The foregoing act originated in the Senate, and passed the same by the following vote yeas 21, nays none; and passed the House of Representatives February 14, 1891.]

Approved February 17, 1891.

APPROPRIATIONS—DEFICIENCY.

- Sec. 1. Enumeration of claims to be paid.
2. Emergency clause.

CHAP. 10.—[H. B. No. 290.] An Act making appropriations for estimated deficiencies in the appropriations for the support of the State Government from March 1, 1889, to February 28, 1891, and for previous years.

Section 1. Be it enacted by the Legislature of the State of Texas: That the following sums or so much thereof as may be necessary, be and the same are hereby appropriated for estimated deficiencies incurred in support of the State Government from March 1, 1889, to February 28, 1891, and for previous years:

OFFICERS AND MEN QUARANTINE DEPARTMENT.

Registered.....	\$19,331.90
Estimated.....	17,500.00
of which the sum of \$2,000.00 shall be set aside to pay the current expenses of the Quarantine department, for the remainder of this fiscal year.	

ATTACHED WITNESSES:

Registered.....	\$17,458.23
Estimated.....	35,000.00

SPECIAL JUDGES:

Registered.....	\$3,241.14
Estimated.....	1,000.00

REPAIRS AT STATE LUNATIC ASYLUM AT AUSTIN:

Registered.....	\$ 917.29
Estimated.....	4,000.00

FOR MEDICAL STORES AT LUNATIC ASYLUM AT AUSTIN:

Registered.....	\$ 87.86
Estimated.....	400.00

For pay of veterans under General laws.....	15,000.00
Holding inquests over dead convicts.....	500.00
For advertising citations in escheated estates.....	2,000.00

TREASURY DEPARTMENT:

Postage.....	\$ 100.00
Contingent.....	25.00
Work on safes, vaults, doors, time locks, &c.....	110.00
Mileage and per diem of the Twenty-first Legislature.....	3,273.80
Publishing Constitutional Amendments.....	20,000.00
Public Printing.....	7,000.00
Fees of Justices and other peace officers.....	3,000.00
To pay J. J. Tobin for paper for use of capitol.....	45.00
To pay the Thompson-Houston Electric Co. for armature for use of capitol.....	505.00
To pay A. J. Zilker for coal for use of engine to heat the capitol....	968.28
To pay Frank Heierman & Bro. for work on engine house at capitol....	20.95
To pay Herman Ludwig labor at Boiler House, 24 days at \$1.75 per day	42.00
To pay Jack Dalton 10 days labor in building and working on Electric wires at \$2.50 per day.....	25.00
To pay I. S. Clark one and one-half days work on elevator at \$3.00 per day.....	4.50
To pay L. C. Brown, one-half day laying brick at Boiler House at capitol at \$5.00 per day.....	2.50
To pay Emory Harold, firing Boiler at capitol 24 days at \$1.75 per day	42.00
To pay L. C. West for 24 days work on electric wire and attending steam pump at capitol at \$1.75 per day.....	42.00
To pay Tom Covitt for 24 days work in keeping water closets clean at capitol and in repair at \$1.25 per day.....	30.00
To pay the N. S. Encaustic Tile Co. for tiling for the capitol.....	42.50
To pay deficiencies due clerks and employes in School, University and Asylum departments in General Land office to be paid out of their respective funds for the year ending February 28, 1891.....	1,600.00

Sec. 2. The fact that there is no appropriation to pay the claims herein stated, which are estimated as outstanding against the state creates an emergency and an imperative public necessity which justify the suspension of the constitutional rule requiring bills to be read on three several days, in each house, and that this act should go into effect from and after its passage and it is so enacted.

[Note.—The foregoing act originated in the House, and passed the same by two-thirds vote, ayes 89, nays 0; and passed the Senate, ayes 22, nays 0.]

Approved February 19, 1891.

IRION, ROBERTS, OCHILTREE, HANSFORD, EDWARDS, BREWSTER, LIPSCOMB AND CARSON COUNTIES.—JURISDICTION OF COUNTY COURTS DIMINISHED.

Sec.

1. Defines jurisdiction of county courts of above named counties.
2. Defines jurisdiction of district courts of above named counties.
3. County clerks to make transcripts of dockets for district clerk; transfer and docketing of causes.

Sec.

4. Does not affect previous judgments; executions and orders of sale.
5. Repealing clause.
6. Emergency clause.

CHAP. 11.—[H. B. No. 139.] An Act to diminish the civil and criminal jurisdiction of the county courts of Irion, Roberts, Ochiltree, Hansford, Edwards, Brewster, Lipscomb and Carson counties.

Section 1. Be it enacted by the Legislature of the State of Texas: That the County Courts of Irion, Roberts, Ochiltree, Hansford, Edwards, Brewster, Lipscomb and Carson counties, shall have and exercise the general jurisdiction of probate courts; shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis and common drunkards, grant letters testamentary and of administration, settle accounts of executors, administrators and guardians, transact all business appertaining to the estates of deceased persons, minors, idiots, lunatics, persons non compos mentis and common drunkards including the settlement, partition and distribution and settlement of estates of deceased persons, and to apprentice minors as provided by law, and issue writs necessary to the enforcement of said jurisdiction, to punish contempt under such provisions as are, or may be provided by general law governing county courts throughout the state, but the said county courts of Irion, Roberts, Ochiltree, Hansford, Edwards, Brewster, Lipscomb and Carson counties, shall have no other civil or criminal jurisdiction whatever.

Sec. 2. The District courts of Irion, Roberts, Ochiltree, Hansford, Edwards, Brewster, Lipscomb and Carson counties, shall have and exercise jurisdiction in all civil and criminal matters, and causes over which by the laws of this State, the county courts of said counties would have jurisdiction, except as provided in Section one of this act; and all causes other than probate matters, and such as are provided by section one of this act, be and the same are hereby transferred to the District courts of Irion, Roberts, Ochiltree, Hansford, Edwards, Brewster, Lipscomb and Carson counties, and all writs and process relating to any civil or criminal matters not included in the subject matter of jurisdiction prescribed in section one of this act, issued by or out of said courts of Irion, Roberts, Ochiltree, Hansford, Edwards, Brewster, Lipscomb and Carson counties, be and the same are hereby made returnable to the next term of the District courts of said counties.

Sec. 3. The county clerks of the counties of Irion, Roberts, Ochiltree, Hansford, Edwards, Brewster, Lipscomb and Carson counties, be and they are hereby required within thirty days after the passage of this act, to make a fair and complete transcript of all entries upon their civil and criminal docket heretofore made in cases whereby section two are required to be transferred to the District courts of said counties, and deliver the same to the district clerks of said counties, together with all the papers to such causes pertaining, and all such causes shall be immediately docketed by said district clerks, and such civil causes so transferred shall stand on the docket of said courts as appearance cases for the next succeeding term, and all criminal cases shall be docketed and disposed of

in the same manner as if the same had originally been triable in said district courts.

Sec. 4. This act shall not be construed to in any manner affect judgments heretofore rendered by said county courts of Irion, Roberts, Ochiltree, Hansford, Edwards, Brewster, Lipscomb and Carson counties, pertaining to matters and causes by which section 2 of this act, are transferred to the district courts of said counties, but the county clerks of said counties shall issue all executions and orders of sale as the judgment in such cases require, and such executions and orders of sale and proceedings thereunder, shall be as valid and binding to all intents and purposes as though the change had not been made as provided in section 2 of this act.

Sec. 5. All laws and parts of laws in conflict with this act, are hereby repealed.

Sec. 6. The near approach to the sitting of the district court in Irion county, and the short time required to make the transfer of the cases provided herein, creates an emergency and imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be so suspended and it is so suspended and that this act take effect and be in force from and after its passage and it is so enacted.

[Note.—The foregoing act originated in the House, and passed the same by two thirds vote, ayes 81 nays 0; and passed the Senate by two-thirds vote ayes 24, nays 0.]

Approved February 21, 1891.

ELECTIONS—SPECIAL.

Sec. 1. Amends article 1685 Revised Statutes as to notice to be given in special elections.

2. Emergency clause.

CHAP. 12.—[S. B. No. 206.] An Act to amend article 1685, of the Revised Civil Statutes of the State of Texas, concerning notice of special elections.

Section 1. Be it enacted by the Legislature of the State of Texas: That article 1685 of the Revised Civil Statutes of the State of Texas, be and the same is hereby amended so as to hereafter read as follows:

Article 1685. Where any election is ordered, at least twenty days notice of the same shall be given by notice posted up at the place or places designated for holding the election in each election precinct, specifying the time at which such election will be held and the officer or officers to be chosen or the question to be voted upon, or both, as the case may be; and it is hereby made the duty of the county-judge of each county, or in case of vacancy in that office or inability or failure to act, then any two of the county commissioners, to have said notices of election posted as required by this article. Provided that in case a vacancy shall occur in the Senate or House of Representatives during a session of the Legislature, then ten days notice of a special election to fill such vacancy shall be sufficient notice of said election.

Sec. 2. Whereas an imperative public necessity exists requiring an election for Senator, therefore it is enacted that the constitutional rule requiring a bill to be read on three several days in each house be suspended; and whereas an emergency exists for holding a special election

for Senator at once, it is enacted that this act take effect and be in force from and after its passage.

[Note.—The foregoing act originated in the Senate, and passed the same by a vote of 21 yeas, nays none; and passed the House of Representatives by the following vote—yeas 95, nays none.]

Approved February 25, 1891.

ASYLUM SUPPLIES.

- Sec. 1. Amends article 145 Revised Statutes—opening bids and letting of contracts.
2. Emergency clause.

CHAP. 13.—[H. B. No. 510.] An Act to amend article 145 of chapter 3 of the Revised Civil Statutes of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas: That article 145 of chapter 3 of the Revised Statutes of Texas, be and the same is so amended as to hereafter read as follows:

Article 145. On the day for opening said bids, the Comptroller shall open the same in the presence of the board of trustees, or such of them as may be present, and shall award to the lowest responsible bidder, the contract or contracts for which he may have bid, provided, that he may reject any or all bids if in his judgment the interests of the State demands it.

Whereas it is of great importance and interest to the State that this bill should become a law at the earliest possible time, creates an emergency and imperative public necessity which requires suspension of the rule requiring bills to be read on three several days, the rule is therefore suspended, that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act originated in the House, and passed the same by a two-thirds vote ayes 89, noes 0; and passed the Senate by two thirds vote ayes 21, noes 3.]

Approved February 27, 1891.

THE TEXAS CONFEDERATE HOME.

Preamble:
Sec.

1. Establishes "The Texas Confederate Home;" John B. Hood Camp Confederate Veterans to transfer property within 20 days from time this act takes effect.
2. Deeds conveying property for purposes herein to be in name of the State, etc.
3. Board of managers; terms of office, their duties.

Sec.

4. Superintendent: his qualification, term of office, duties.
5. Salary of superintendent.
6. What application for admission must show.
7. Applications referred to and passed on by Board of Managers.
8. Appropriations for buildings and grounds, etc., and support of the Home—Sources of Revenue.
9. Emergency clause.

CHAP. 14.—[H. B. No. 242.] An Act to authorize the transfer of the Confederate Home at Austin from private to State management, and to establish said Home as a State institution, and provide for its support.

Whereas the home for the support of maimed, disabled and indigent ex-Confederate soldiers and sailors, established at Austin by the contributions of the humane and benevolent of all sections of the Union which has been managed for some years with marked economy by the John B.

Hood Camp of Confederate Veterans, a private corporation duly incorporated under the laws of the State of Texas, cannot, without rapid exhaustion of its resources, provide for the increasing number of veterans, who, by reason of age and infirmity are unable to obtain, by their own exertions the necessary means of subsistence, and Whereas, it is not deemed to be within the constitutional power of the Legislature to contribute to the maintenance of said home, as a private institution; and, Whereas it is now proposed by the said John B. Hood Camp Confederate Veterans, to transfer to the State of Texas the present Confederate Home, situated on West 6th street, city of Austin, Travis county, Texas, on condition that the state shall assume the control and maintenance of said Confederate Home, and it is most fitting that the state should make some adequate provision for this large and increasing class of helpless and indigent citizens; Now therefore

Section 1. Be it enacted by the Legislature of the State of Texas: That there shall be established and maintained at the city of Austin, a home, to be known as "The Texas Confederate Home," for the maintenance of indigent and disabled ex-confederate soldiers and sailors within this state, the same to be located on the grounds now known as the Confederate Home, and now under the control and management of the John B. Hood Camp Confederate Veterans; provided that the said John B. Hood Camp Confederate Veterans, shall within twenty days from the time this act shall go into effect, make and execute to the State of Texas; in the manner hereinafter provided, a deed of transfer of the said real estate and all the personal property of every description now in and on said grounds and shall also release and relinquish to the State all its interest in the building known as the Temporary Capitol which they acquired by virtue of a certain lease executed in the name of the State of Texas in pursuance of an act passed at the regular session of the Twenty-first Legislature entitled "an act to lease the Temporary Capitol building in the City of Austin to the Board of Directors of the John B. Hood Camp of Confederate Veterans."

Sec. 2. That deeds and other instruments conveying property for the purposes herein mentioned shall be in the name of the State of Texas, for the use of the Confederate Home.

Sec. 3. The Governor shall appoint a board of five ex-confederate soldiers for the management of said Home, said managers to remain in office two years, or until their successors are appointed; and they shall be governed in their regulation of the affairs of said Home by the laws now in existence relative to the Deaf, Dumb and Blind Institutions of this State so far as the same may be applicable, and shall make and prescribe such rules and regulations as may be necessary for the internal government, discipline and management of the Home; and that said board of managers shall also have charge of all the property received from the John B. Hood Camp Confederate Veterans, or from any other source for the maintenance of said Home; said Board of Managers shall make annual reports to the Governor on the first day of each December, embracing a full statement of all expenditures and transactions of the institution for the fiscal year next preceeding. They shall visit the Home at least once each month.

Sec. 4. The said Board of managers shall appoint a Superintendent, who shall be an ex-confederate soldier, whose duties of office shall be the supervision of the affairs of said Home, keeping the accounts of the same, and its general management, under the direction of the Board of

Managers. He shall be under the control of and subject to removal (for cause, duly spread upon the records of said Home) by said Board, and unless sooner removed by said Board, for cause, shall hold his office for the term of two years, or until his successor shall be appointed.

In addition to his other duties he shall keep in a book prepared for that purpose the name and age of each inmate, date of admission to the Home, the Company and Regiment or other command or capacity, in which the military service was performed, and the state from which he entered the service, and such other data concerning the history of the inmates as the Board of Managers may prescribe.

Sec. 5. The superintendent of said Home shall receive a salary of fifteen hundred dollars per annum.

Sec. 6. All applications for admission to said Home must show on the oath of applicant.

1st. Name of applicant.

2d. His age.

3d. His residence (county and post office address.)

4th. The company, regiment, brigade and army in which he served.

5th. That he is disabled and indigent, and is now a bona fide citizen of Texas, and was a resident of this State on the first day of January, 1891. Proof of the honorable service of applicant as stated by himself must be made by affidavit of two reputable persons, or by his written discharge, duly authenticated, with sufficient proof of identity. The application must also be accompanied by a certificate of a regular practicing physician that the applicant is unable to provide a support for himself, giving the character of the disability, and that the applicant is not a lunatic, and is not afflicted with any contagious or infectious disease.

Sec. 7. All applications for admission to said Home shall be referred to and passed upon by the Board of Managers.

Sec. 8. For the purpose of carrying into effect this law, so much of the proceeds arising from the rentals from all vacant lots or parts of lots and blocks in the city of Austin belonging to the state, not now occupied by the state and used by it, or occupied by church edifices, which shall be leased by the superintendent of public buildings and grounds for a long term, the proceeds of the sale of about six and a half acres of land on the south side of Colorado river in Travis county, known as the Fish Pond, which land the Superintendent of Public buildings and grounds is hereby authorized to sell, all fees of the Commissioner of Insurance, History and Statistics in excess of the expenses of his office, all money now in the State Treasury to the credit of escheated estates, and all money arising hereafter from the sale of escheated estates, all lands hereafter purchased by the state under execution, the proceeds from the sales of all personal property belonging to the state, not used by other state institutions to which it may belong, all money derived from the lease of the temporary capitol, and the fees received by the Secretary of State in excess of the expenses of his office, as shall not exceed the sum of sixty-five thousand dollars, or so much thereof as may be necessary is hereby set aside and appropriated for additional buildings and grounds and improvements of the grounds and the support and maintenance of the said Confederate Home, for the two years ending March 1, 1893, and the money arising from all the above mentioned sources shall be placed as received in the State Treasury to the credit of the Confederate Home, subject to withdrawal, as needed, upon requisition by the Board of Managers, by warrant issued by the Comptroller.

Sec. 9. Whereas there is now a large number of worthy applicants for admission to the home who are without homes and the necessary means of support, but who can not be admitted on account of the want of room; and, whereas, it is important to said applicants that this bill should become a law at an early day; therefore, an emergency and imperative public necessity exists requiring the suspension of the constitutional rule requiring bills to be read on three several days, and said rule is hereby suspended, and this act shall take effect and be in force immediately from and after its passage, and it is so enacted.

[Note.—The foregoing act originated in the House, and passed the same by two-thirds vote—ayes 78, noes 16; and passed the Senate by two-thirds vote—ayes 23, nays 0.

Approved February 27, 1891.

FOARD COUNTY CREATED.

Sec.

1. Creates Foard county and defines its boundaries.
2. Committee of organization; their duties.
3. The new county to pay pro rata part of debt of the counties from which it is taken.

Sec.

4. Attached to forty-sixth judicial, fifth congressional, nineteenth senatorial and forty-sixth representative districts.
5. Repealing clause.
6. Emergency clause.

CHAP. 15.—[S. B. No. 217.] An Act to create the county of Foard out of parts of Hardeman, King, Cottle and Knox counties, and to provide for its organization.

Section 1. Be it enacted by the Legislature of the State of Texas: That a new county to be called Foard county, is hereby created out of parts of the territory of Hardeman, King, Cottle and Knox counties, to-wit: Beginning at the point on the east boundary line of Hardeman county and the west boundary line of Wilbarger county where said line crosses Pease river, thence up said river with its meanders to the mouth of Canal Creek, thence north 60, west in a direct line to the point where the east boundary line of Cottle county crosses Pease river, thence up said river with its meanders three miles, thence south to the north line of King county, thence east three miles to the northwest corner of Knox county, continuing east with the north line of Knox county to the point where Wichita river crosses the north line of Knox county, thence down the center of the channel of said Wichita river with its meanders to the west line of Baylor county thence north with the west line of Baylor county and the east boundary line of Hardeman and the west boundary line of Wilbarger county to the place of beginning.

Sec. 2. That J. A. Wright, J. C. Sanders and J. H. Self are hereby appointed a committee for the purpose of organizing said county of Foard and they shall after the expiration of thirty days from the time this act takes effect, lay off said county into four commissioners precincts, and convenient justice precincts not to exceed eight in number; also convenient voting precincts for the election of county officers, and the selection of a county seat and designate places in each of said precincts where elections shall be held. Said committee shall within ten days thereafter order an election to be held for county officers and for the selection of a county seat for said county, and they shall appoint presiding officers of election for each voting precinct as prescribed by law in other cases.

The election returns shall be made to said committee, who shall count the votes and issue the certificates of election to the persons elected, and shall approve the bonds of said officers and administer to them the oath of office. Said committee shall keep a correct record of all the proceedings and file the same in the office of the county clerk when elected, who shall record the same in his office.

That any two of said committee shall constitute a quorum for the transaction of business, and any one of said committee shall have the power to administer the oath of office to the officers elect. And any two of said committee may declare the result of the election selecting the place for the county seat.

Sec. 3. That the new county shall pay a pro rata part of the existing legal debts of the counties from which it is taken, and there shall be set apart so much of the county taxes [taxes] levied and collected on the property within said new county as shall be sufficient to speedily liquidate said existing debts, if any, said pro rata to be based upon the value of the property for each year of the existence of said debt to be determined from the tax rolls of said county, as made by the board of equalization.

Sec. 4. That the county of Foard is hereby attached to the Forty sixth Judicial district for judicial purposes, to the Fifth Congressional, the Nineteenth Senatorial and the Forty-sixth Representative districts for the purpose of representation.

Sec. 5. That all laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

Sec. 6. Whereas the county commissioners courts of Hardeman and Knox counties are about to levy taxes for the present year, therefore an emergency exists and an imperative public necessity requires the rule requiring that bills be read on three several days be suspended and this act shall take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act originated in the Senate, and passed the same by the following vote yeas 26, nays none; and passed the House of Representatives by a vote of yeas 79, nays none.]

Approved March 3d, 1891.

STERLING COUNTY CREATED.

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| <p>Sec.</p> <ol style="list-style-type: none"> 1. Creates Sterling county and gives boundaries. 2. Attached to Tom Green for judicial, surveying and recording purposes. 3. To pay its pro rata of legal indebtedness of Tom Green county. | <p>Sec.</p> <ol style="list-style-type: none"> 4. Attached to thirty-fifth judicial, eleventh congressional, twenty-eighth senatorial, and eightieth representative districts. 5. Provides for manner of organization. 6. Emergency clause. |
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CHAP. 16.—[H. B. No. 307.] An Act to create the county of Sterling out of Tom Green county.

Section 1. Be it enacted by the Legislature of the State of Texas: That a new county, to be called the county of Sterling, is hereby created out of the present county of Tom Green, in this state, the boundaries of which shall be and are hereby declared to be as follows, to wit:

Beginning at the North East corner of Glasscock County, which shall be the north west corner of Sterling county; thence south along the East boundary line of Glasscock county to the South East corner thereof; thence continuing said line south to the North boundary line of Section

29 T. C. R. R. Co. survey, thence east to the South East corner of Section 35 of block 5, H. & T. C. R. R. Co. survey; thence North along section lines to the South East corner of Section 33 block 11; S. P. R. R. Co. survey; thence East to the South West corner of Coke County; thence North along the West line of Coke County to the North west corner of Coke County; thence West along the Southern boundary line of Howard County to the place of beginning.

Sec. 2. The county of Sterling is hereby attached to the county of Tom Green for judicial, surveying and recording purposes.

Sec. 3. That the county hereby created in the first section of this act shall pay a pro rata share of all the existing legal debts and liabilities of Tom Green county, and there shall be set apart annually so much of the county taxes levied and collected on the property within said new county as shall be sufficient to speedily pay off and discharge said pro rata share of such legal debts and liabilities, according to the requirements of the contracts and obligations thereof, said pro rata share shall be based upon the value of the property of said county hereby created for each year of the existence of any of said debts or liabilities to be determined from the tax rolls of said county as made by the board of equalization, and paid as now required by law in other like cases.

Sec. 4. The county hereby created shall be and the same is hereby attached to the Thirty-fifth Judicial District for judicial purposes, to the Eleventh Congressional District, the Twenty-eighth Senatorial and Eightieth Representative Districts for representative purposes.

Sec. 5. If there shall be a desire to organize the county hereby created before the next general election the citizens thereof may petition the county judge in the manner required by the law then in force in reference to unorganized counties desiring to organize, and at the same time they may petition for the location of a county seat, and if the election to organize shall be ordered, the county seat shall be voted for and the result declared as provided by law.

Sec. 6. The fact that it is necessary to include this county in the reorganization of the Judicial District to be done before this session of the Legislature is adjourned and to provide for holding courts in said county, creates an emergency and an imperative public necessity which requires the suspension of the constitutional rule requiring bills to be read on three several days, and that this act shall take effect from and after its passage, the rule is therefore suspended and this act shall so take effect.

[Note.—The foregoing act originated in the House, and passed the same by two-thirds vote—ayes 82, noes 0; and passed the Senate by two-thirds vote—ayes 21, noes 0.]

Approved March 4, 1891.

LIMITATION—CONTRACTS.

- Sec. 1. Contract limiting time in which to sue illegal, when.
 2. Stipulation as to notice; must be reasonable.

CHAP. 17.—[S. B. No. 10.] An act invalidating the provision in any stipulation, contract or agreement limiting the time in which suit may be brought thereon to not less than two years, and to provide what shall be a sufficient notice of a claim before suit brought and how the same shall be given.

Section 1. Be it enacted By the Legislature of the State of Texas: That it shall hereafter be unlawful for any person, firm, corporation, association or combination of whatsoever kind to enter into any stipulation, contract or agreement by reason whereof, the time in which to sue thereon is limited to a shorter period than two years. And no stipulation, contract or agreement for any such shorter limitation in which to sue, shall ever be valid in this State.

Sec. 2. No stipulation in any contract requiring notice to be given of any claim for damages as a condition precedent to the right to sue thereon shall ever be valid unless such stipulation is reasonable and any such stipulation fixing the time within which such notice shall be given at a less period than ninety days shall be void, and when any such notice is required, the same may be given to the nearest or any other convenient local agent of the company requiring the same. That in any suit brought under this act it shall be presumed that notice has been given unless the want of notice is specially pleaded under oath.

Approved March 4, 1891.

 USURY.

- Sec. 1. Usury defined; penalty.
 2. Fines to become part of Road and Bridge fund.
 3. Does not repeal or impair article 54 Revised Civil Statutes.

CHAP. 18.—[H. B. No. 44.] An Act to be entitled an act to define and punish usury.

Section 1. Be it enacted by the Legislature of the State of Texas: That, if any person shall for himself or as the agent of another, either directly or indirectly, loan any money, and directly or indirectly charge or receive a greater rate of interest thereon, than twelve per cent per annum, he shall be deemed guilty of usury, and upon conviction thereof, shall be fined in any sum not less than one-third nor more than the whole amount of the money so loaned.

Sec. 2. All fines collected under this act, shall be paid into the county treasury where such offense is committed, and become a part of the Public Road and Bridge fund of such county.

Sec. 3. This act is hereby declared not to repeal or impair title 54, of the Revised Civil Statutes of Texas, on the subject of interest.

[Note.—The foregoing act was presented to the Governor for his approval on the 27th day of February, A. D. 1891, but was not signed by him nor returned to the House in which it originated with his objections thereto within the time prescribed by the constitution, and thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

JUDICIAL DISTRICT—TWENTY-FOURTH.

- Sec. 1. Terms of court.
2. Repealing clause.

CHAP. 19.—[H. B. No. 142.] An Act to fix the time for holding the District court in the Twenty-fourth Judicial District.

Section 1. Be it enacted by the Legislature of the State of Texas: That the district court shall be held in the Twenty-fourth Judicial District as follows:

In the county of Aransas, on the second Monday of February and on the first Monday of September, and may continue in session two weeks.

In the county of Refugio, on the second Mondays after the second Monday in February and the first Monday in September, and may continue in session one week.

In the county of Bee, on the third Mondays after the second Monday in February and the first Monday in September, and may continue in session two weeks.

In the county of Karnes, on the fifth Mondays after the second Monday in February and the first Monday in September, and may continue in session two weeks.

In the county of Goliad, on the seventh Mondays after the second Monday in February and the first Monday in September, and may continue in session three weeks.

In the county of Calhoun, on the tenth Mondays after the second Monday in February and the first Monday in September, and may continue in session one week.

In the county of Victoria, on the eleventh Mondays after the second Monday in February and the first Monday in September, and may continue in session four weeks.

In the county of De Witt, on the fifteenth Mondays after the second Monday in February and the first Monday in September, and may continue in session until the business is disposed of.

Sec. 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 9, 1891.

DONLEY COUNTY.

- Sec. 1. Boundaries of; article 767 Revised Statutes amended.
2. Emergency clause.

CHAP. 20.—[H. B. No. 230. An Act to be entitled an act to amend article 767 of the Revised Statutes of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas: That article 767 of the Revised Statutes of the State of Texas be amended so as to hereafter read as follows:

Article 767. Beginning at the North East corner of Armstrong County and the South East corner of Carson county and South West corner of Gray county; Thence South thirty miles; Thence East thirty miles; Thence north thirty miles; Thence West thirty miles to the beginning.

Sec. 2. Whereas the boundary lines of the county of Donley are in confusion by reason of their failure to close as intended by law, and by

reason of such confusion the courts of said county are in doubt as to their jurisdiction; therefore an imperative public necessity and an emergency exists authorizing the suspension of the constitutional rule requiring bills to be read on three several days, and said rule is so suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act originated in the House, and passed the same by two-thirds vote ayes 82, noes 0; and passed the Senate by two-thirds vote ayes 22 nays 0.]

Approved March 10, 1891.

JUDICIAL DISTRICT—FORTY-SECOND.

Sec.

1. Amends section 9, act of March 31, 1887.

(9.) Counties composing Forty-second district; terms of court.

Sec.

2. Return of process.
3. Emergency clause.

CHAP. 21.—[H. B. No. 162.] An Act to be entitled "An act to amend an act to reorganize the Thirty first, Thirty second, Thirty-third, Thirty-fifth and Thirty-ninth Judicial Districts, and to create the Forty-second Judicial District of the State of Texas, and to fix the times of holding courts therein; and to provide for the appointment and election of Judges and District Attorneys in the Thirty-second and Forty-second Judicial Districts and to repeal all laws and parts of laws in conflict herewith," approved March 31, 1887.

Section 1. Be it enacted by the Legislature of the State of Texas: That Section 9 of the above recited act be amended so as to hereafter read as follows:

Sec. 9. The forty-second judicial district of the State of Texas shall be composed of the counties of Comanche, Eastland, Stephens, Shackelford, Callahan and Taylor, and terms of the District court shall be held annually therein as follows:

In the county of Comanche, on the first Monday in February and on the third Monday in August, and may continue in session four weeks.

In the county of Taylor, on the fourth Monday after the first Monday in February, and the sixth Monday after the first Monday in August, and may continue in session five weeks.

In the county of Callahan, on the ninth Monday after the first Monday in February, and on the eleventh Monday after the first Monday in August, and may continue in session three weeks.

In the county of Shackelford, on the twelfth Monday after the first Monday in February, and on the fourteenth Monday after the first Monday in August, and may continue in session two weeks.

In the county of Stephens, on the fourteenth Monday after the first Monday in February and on the sixteenth Monday after the first Monday in August, and may continue in session three weeks.

In the county of Eastland, on the seventeenth Monday after the first Monday in February, and on the nineteenth Monday after the first Monday in August and may continue in session until the business is disposed of.

Sec. 2. All writs, process, and bonds civil and criminal, which may be issued or executed up to the time this act takes effect by or from the District Courts of the several counties above named, or under order of

said courts and made returnable to the terms of said courts as they are now fixed by law, shall be returnable to the next ensuing terms of said courts in each county as they are prescribed by this act; and all such writs, process and bonds above mentioned are hereby legalized and validated to all intents and purposes, as if the same had been returnable to the terms of said courts as the terms hereof are herein prescribed.

Sec. 3. The fact that the time of holding the courts in the aforesaid district as hereby changed will create a confusion in holding the courts under this act, after it takes effect, if it should not take effect from and after its passage, creates an emergency, and an imperative public necessity exists that the constitutional rule requiring this bill to be read on three several days in each House should be suspended, and said rule is hereby suspended, and this act shall take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act originated in the House, and passed the same by two-thirds vote, ayes 78, noes none; and passed the Senate by two-thirds vote, yeas 21, nays 0.]

Approved March 10, 1891.

ATTORNEYS AT LAW—UNIVERSITY GRADUATES.

Sec.

1. Adds article 222a to title 10, chapter 2, Revised Statutes.

Sec.

- (Art. 222a.) Law graduates of University of Texas, now licensed.
2. Emergency clause.

CHAP. 22.—[H. B. No. 121.] An act to be entitled an act to amend title Ten chapter 2 of the Revised Civil Statutes by adding thereto article 222a.

Section 1. Be it enacted by the Legislature of the State of Texas.

Article 222a. Any person holding a diploma from the law department of the "University of Texas," and who desires to practice as an attorney and counsellor at law in the courts of this State, may present such diploma to the District or Supreme Court in term time, together with a certificate of the commissioners court of the county in which he resides, that he is a man of good moral character and honorable deportment, and such court shall thereupon order the clerk to issue a license to such applicant, which license shall be signed by the presiding Judge of such court and tested by the seal of the court, which, if granted by the District Court, shall authorize such applicant to practice in the District and Inferior courts of the State, and if by the Supreme court, then in all the courts of the State.

Sec. 2. The near approach of the close of the present session of the Legislature requires a suspension of the constitutional rule requiring bills to be read in each house on three several days, and such rule is therefore so suspended, and that this act take effect and go into force from and after its passage, and it is therefore so enacted.

[Note. The foregoing act originated in the House, and passed the same by two-thirds vote, ayes 75 noes 3; and passed the Senate by the following vote, yeas 24 noes 1.]

Approved March 10, 1891.

COUNTY COURT—NACOGDOCHES COUNTY.

Sec.

1. Amends sections 5 and 6 of act of February, 1891.
- (5.) Restores civil and criminal jurisdiction of Nacogdoches county.
- (6.) Jurisdiction of district court.

Sec.

2. Adds section 10.
- (10.) Actions against officers for failure to pay over moneys; penalty.
3. Repealing clause.
4. Emergency clause.

CHAP. 23.—[H. B. No. 554.] An Act amendatory of and supplemental to an act entitled an act to restore to and confer upon the county court of Nacogdoches County the civil and criminal jurisdiction heretofore belonging to it under the constitution and general laws of the State, and to conform the jurisdiction of the district court of said county to such change, approved February, 1891.

Section 1. Be it enacted by the Legislature of the State of Texas: That Section 5 and 6 of an act entitled an act to restore to and confer upon the county court of Nacogdoches county the civil and criminal jurisdiction heretofore belonging to it under the constitution and general laws of the State, and to conform the jurisdiction of the District court of said county to such change, approved February, 1891, be so amended as to hereafter read as follows:

Sec. 5. Said county court shall have exclusive original jurisdiction over all misdemeanors except the misdemeanors involving official misconduct, and except cases in which the highest penalty of fine that may be imposed under the law, may not exceed two hundred dollars, and shall have original jurisdiction of all misdemeanors except the misdemeanors involving official misconduct, and concurrent jurisdiction with that of justices of the peace in criminal cases; and said court shall have appellate jurisdiction in criminal cases of which justices of the peace and other inferior tribunals of said county have original jurisdiction.

Sec. 6. The District court of said county of Nacogdoches shall no longer have jurisdiction of misdemeanors, except misdemeanors involving official misconduct, and shall no longer have jurisdiction of cases of which the county court of said county by the provisions of this act, have original or appellate jurisdiction; and it shall be the duty of the district clerk of said county within thirty days after this act shall take effect, to make full and complete transcripts of all orders on the criminal and civil dockets in cases then pending before the District court of said county, of which cases by the provisions of this act original and appellate jurisdiction is given to the said county court, and to deliver said transcripts together with the original papers and a certified bill of costs in each case, to the county clerk of said county, and said county clerk shall take charge of said transcripts and papers, file the same, and enter said cases on their respective dockets for trial by said court.

Sec. 2. Be it further enacted that section 10 be added to said act and be as follows:

Sec. 10. Said County Court shall also have power to hear and determine all motions against sheriffs and other officers of the court for failure to pay over moneys collected under the process of said court, or other defalcation of duty in connection with such process, and shall have power to punish by fine not exceeding one hundred dollars, and by imprisonment not exceeding three days, any person guilty of contempt of said court, and all other powers and jurisdiction conferred on county courts by the constitution and general laws of this State.

Sec. 3. All laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

Sec. 4. That the above recited act, having taken effect from and after its passage, creates such an emergency and imperative public

necessity as requires that the constitutional rule requiring bills to be read on three several days be suspended, that this supplemental act, in order to be consistent and in harmony therewith, should also take effect and be in force from and after its passage, and it is so enacted that said rule is hereby suspended, and that this act do take effect and be in force from and after its passage.

[Note.—The foregoing act originated in the House, and passed the same by two-thirds vote ayes 79, noes 0; and passed the Senate by two-thirds vote ayes 22, nays 0.]

Approved March 10, 1891.

FELLOW SERVANTS.

Sec.

1. Vice principals defined.
2. Fellow servants defined.

Sec.

3. No contract on contingency of injury or death of employe valid.

CHAP. 24.—[H. B. No. 386.] An Act to define who are fellow servants and who are not fellow servants.

Section 1. Be it enacted by the Legislature of the State of Texas: That all persons engaged in the service of any railway corporations, foreign or domestic, doing business in this State, who are entrusted by such corporation with the authority of superintendence, control or command of other persons in the employ or service of such corporation, or with the authority to direct any other employe in the performance of any duty of such employe, are vice principals of such corporation, and are not fellow servants with such employe.

Sec. 2. That all persons who are engaged in the common service of such railway corporations and who, while so engaged are working together at the same time and place to a common purpose, of same grade, neither of such persons being entrusted by such corporations, with any superintendence or control over their fellow employes, are fellow servants with each other; provided, that nothing herein contained shall be so construed as to make employes of such corporation, in the service of such corporation, fellow servants with other employes of such corporation, engaged in any other department or service of such corporation. Employees who do not come within the provisions of this section shall not be considered fellow servants.

Sec. 3. No contract made between the employer and employee, based upon the contingency of the injury or death of the employee, limiting the liability of the employer under this act, or fixing damages to be recovered, shall be valid and binding.

Approved March 10, 1891.

CITIES AND TOWNS—INCORPORATION OF.

Sec.

1. Adds article 340c to chapter 1, title 17, Revised Statutes, as to incorporation of cities and towns of one thousand inhabitants or more.

Sec.

2. Emergency clause.

CHAP. 25.—[S. S. B. Nos. 85 and 93.] An Act to amend chapter 1, title 17, of the Revised Civil Statutes of the State of Texas, by the addition thereto of article 340c.

Section 1. Be it enacted by the Legislature of the State of Texas: That chapter 1, title 17, of the Revised Civil Statutes of the State of Texas, be and the same is hereby amended by adding article 340c, which shall read as follows:

Article 340c. That all towns and cities of one thousand inhabitants or more which have heretofore attempted to accept the provisions of this title and to become incorporated cities of one thousand inhabitants or more, under the general laws of Texas, and have failed to comply with all the requirements of said general law, or which are not included within the literal meaning of those cities which are authorized to accept the provisions of said general law, and all towns and villages incorporated under chapter 11, of title 17, of the Revised Civil Statutes or by special charter or otherwise, but which now have one thousand inhabitants or more and which have heretofore attempted to accept the provisions of this title in lieu of their said town or village charter and become incorporated cities of one thousand inhabitants or more; but which said cities have from and after the dates of their several attempted incorporations and their several efforts to accept the provisions of this title exercised the functions of cities of the class named, and were by the State of Texas recognized as such cities, be and the same are hereby declared to be cities of one thousand inhabitants or more, and the several acts whereby they attempted to accept the provisions of said law are hereby in all things validated. And that all subsequent acts of said cities and towns done and performed as a city of one thousand inhabitants or more, after they had attempted to accept the provisions of said law as aforesaid, be and the same are hereby validated and declared to be as binding as if said cities had been duly and legally incorporated, provided, that nothing herein shall be construed as validating any act of said cities or the councils thereof, unless same were authorized by the general laws of the State under which they were attempting to act, at the several dates when said acts were done, and provided further, that the provisions of this act shall not validate the act of any town or city in unlawfully adding additional territory to such town or city, without the consent of such inhabitants so added to said town or city.

Sec. 2. Whereas there are many cities in Texas of one thousand inhabitants or more which have heretofore attempted to accept the provisions of the general law as stated in the preceding section of this article, and have attempted to incorporate themselves, but have failed to comply with the provisions thereof, but have nevertheless been recognized as cities, and have borrowed money, incurred debts, purchased property and levied taxes, built school houses and engaged in many different enterprises for the public good; and whereas the corporate existence of many of these cities is threatened by legal proceedings by which the creditors of said city would be without remedy, and the public interest greatly injured, therefore an emergency and an imperative public necessity exists for the suspension of the constitutional rule requiring

bills to be read on three several days, and the same is hereby suspended and this act take effect from and after its passage, and it is so enacted.

[Note.—The foregoing act originated in the Senate, and passed the same by yeas 21, nays 1; and passed the House by yeas 81, nays none.]

[Note.—The foregoing act was presented to the Governor for his approval on the second day of March, A. D. 1891, but was not signed by him or returned to the house in which it originated, with his objections thereto within the time prescribed by the constitution, and thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

JUDICIAL DISTRICTS—THIRTY-FIFTH AND FIFTY-FIRST.

Sec.

1. Counties composing the Thirty-fifth district; terms of court.
2. Creates Fifty-first district; counties composing same; terms of court.
3. Judges of Thirty-fifth to be assigned to Fifty-first; district attorney of Thirty-first to continue in same office.

Sec.

4. Judge of Thirty-fifth district and district attorney of Fifty-first district to be appointed.
5. Return of process; selection of juries.
6. Emergency clause; act takes effect June 30, 1891.

CHAP. 26.—[H. B. No. 246.] An Act to reorganize the (35th) Thirty-fifth Judicial district and to create the (51st) Fifty first Judicial district of the State.

Section 1. Be it enacted by the Legislature of the State of Texas: That the (35th) Thirty-fifth judicial district of this State shall be composed of the counties of Coleman, Runnels, Concho, McCulloch and Brown, and the District courts shall be held therein each year as follows towit:

In the county of Coleman on the first Mondays in February and September, and may continue in session four weeks.

In the county of Runnels on the fifth Mondays after the first Mondays in February and September, and may continue in session three weeks.

In the county of Concho on the eighth Mondays after the first Mondays in February and September, and may continue in session three weeks.

In the county of McCulloch on the eleventh Mondays after the first Mondays of February and September, and may continue in session two weeks.

In the county of Brown on the thirteenth Mondays after the first Mondays of February and September, and may continue in session until the business is disposed of.

Sec. 2. The Fifty-first judicial district is hereby created and shall be composed of the counties of Irion, Sutton, Coke, Schleicher, (when organized,) Sterling, (or the new county created by the 22d Legislature out of Tom Green,) and Tom Green, and a district court shall be held therein each year as follows, towit:

In the county of Irion on the first Mondays of September and February, and may continue in session two weeks.

In the county of Sutton on the third Mondays of September and February, and may continue in session two weeks.

In the county of Coke on the fifth Monday after the first Mondays in September and February and may continue in session three weeks.

In the county of Schleicher, when organized, on the eighth Mondays after the first Mondays in September and February, and may continue in session two weeks.

In the county of Sterling on the tenth Mondays after the first Mondays of September and February and may continue in session two weeks.

In the county of Tom Green on the twelfth Mondays after the first Mondays of September and February and may continue in session until the business of the court is disposed of.

Sec. 3. The District Judge of the thirty fifth judicial district as already constituted shall be assigned after this act goes into effect, to the fifty first Judicial District, as constituted and created in this act, and the district attorney of the Thirty fifth judicial district as it already exists, shall continue the duties of his office in said thirty fifth district until the next general election.

Sec. 4. As soon as this act goes into force and effect the Governor is hereby authorized and directed to appoint some suitable person to fill, and to perform the duties of the office of District Judge, of the Thirty fifth judicial district as reorganized by this act, and he shall in like manner appoint some suitable person to be district attorney of the Fifty first judicial district, and all the persons hereby directed to be appointed shall hold their offices until the next general election.

Sec. 5. That all processes issued or served before this act goes into force and effect, returnable to the district court of any of the counties of the Thirty fifth judicial district as it already exists, shall be considered as returnable to said courts of any such counties in accordance with the times, as provided in this act, and all such processes are hereby legalized, and all grand and petit jurors drawn and selected under existing laws, in any of the counties of said judicial district shall be considered as lawfully drawn and selected for the next term of the district courts of their respective counties held after this act shall be in force and effect.

Sec. 6. Whereas, the rapid settlement of the counties mentioned in this act and the inability of the judges under former laws to transact all the business in the courts of the several counties creates an imperative public necessity and an emergency exists requiring the suspension of the constitutional rule requiring bills to be read on three several days in each house, therefore, said constitutional rule is suspended, and this act shall take effect and be in force and effect from and after the 30th day of June, A. D. 1891, and it is so enacted.

[Note.—The foregoing act originated in the House, and passed the same by two-thirds vote ayes 74 noes 0; and passed the Senate by two-thirds vote ayes 21 nays 0.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the third day of March, A. D. 1891, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the constitution, and thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

RAILROAD DEPOTS.

Sec.

1. Amends article 4238, Revised Statutes, as amended by act April 8, 1889.

Sec.

- Depots to be lighted and warmed; penalty.
2. Emergency clause.

CHAP. 27.—[H. B. No. 430.] An Act to amend article 4238 of the Revised Statutes of the State of Texas as amended by an act approved April 8, 1889.

Section 1. Be it enacted by the Legislature of the State of Texas: [That article 4238 of the Revised Statutes of the State of Texas, be and the same is hereby so amended, that the same shall thereafter read as follows:

Article 4238. Every railroad company doing business in this State shall keep its depots or passenger houses in this State, lighted and warmed, and open to the ingress and egress of all passengers who are entitled to go therein, for a time not less than one hour before the arrival and after the departure of all trains carrying passengers on such railroad; and every such railroad company for each failure or refusal to comply with the provisions of this act, shall forfeit and pay to the State of Texas, the sum of fifty dollars, which may be sued for and recovered in the name of of the State in any court of competent jurisdiction and shall be liable to the party injured, for all damages by reason of such failure.

Sec. 2. The fact that the law as it now is, works a useless hardship on many citizens and railroads in this State and that injustice is daily done by reason thereof creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and said rule is hereby suspended, and it is so enacted.

[Note.—The foregoing act originated in the House and passed the same by two-thirds vote ayes 83, noes 0; and passed the Senate by two-thirds vote ayes 24, noes 0.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 6th day of March A. D. 1891, but was not signed by him or returned to the house in which it originated with his objections thereto within the time prescribed by the constitution and thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

ATTACHMENT.

- Sec. 1. Amend article 182, Revised Statutes; disposition of property or proceeds when attachment is quashed; emergency.

CHAP. 28.—[S. H. B. for S. B. No. 12.] An Act to amend article 182 of the Revised Civil Statutes of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas: That article 182, title 9, chapter 1 of the Revised Civil Statutes of the state of Texas, be so amended that it will hereafter read as follows:

Article 182. Should the attachment be quashed or otherwise vacated by interlocutory judgment or order of the court, the court shall make the proper order making disposition of the property, or the proceeds of the sale thereof, if the same has been sold under order of the court directing that it be turned over to the defendant.

But the property or the proceeds of the sale thereof, if the same has not

been replevied, shall remain in the hands of the officers pending the final disposition of the main case and until it shall be finally disposed of, or until the time for perfecting an appeal has elapsed and no appeal has been perfected, when said order disposing of the property shall be carried into effect; Provided, that pending the final disposition of the main case the defendant shall have the right at any time to replevy the property in the same manner as is provided for in article 170 of this chapter or if the property has been sold he may replevy the proceeds of such sale by giving a bond in double the amount of the money arising from such sale, with like conditions as are contained in article No. 170. And any replevy bond given in such case, whether before or after the quashing or vacating such attachment, shall be as valid and binding as if such attachment had never been quashed or vacated.

Sec. 2. All laws and parts of laws in conflict with this act are hereby repealed.

Whereas there is no law authorizing the courts of last resort to revise the rulings of trial of courts in quashing or vacating attachments creates an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended and that this law be in force from and after its passage and it is so enacted.

[Note.—The foregoing act originated in the House and passed the same February 12, 1891; and passed the Senate by two-thirds vote ayes 24 noes 0.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on the tenth day of March A. D. 1891, and was not signed by him, nor returned to the house in which it originated with his objections thereto within the time prescribed by the constitution, and thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

COUNTY SEATS.

Preamble.

Sec.

● Sec.

2. Emergency clause.

1. Validating location of certain county seats in newly organized counties.

CHAP. 29.—[H. S. S. B. No. 15.] An Act to validate the location of County seats in certain counties where the same were organized and their county seats located under a misapprehension of the meaning of the law in regard to the election of county seats in newly organized counties.

Whereas many counties have been organized and their county seats located under the belief that the law authorized the location of their county seats, more than five miles from the center of the county by a majority of the votes at such election; and, whereas, many of such county seats were located more than five miles from the geographical center of the county at elections where only a majority of the votes favored such locations; and, whereas, in many of said counties valuable court houses and jails have been erected in such county seats and the bonds of such counties issued in the payment of the same; and whereas, the supreme court has recently decided that such county seats were illegally located and established; and whereas, it will create much confusion and dissatisfaction in such counties to hold new elections for the location of their county seats; therefore

Section 1. Be it enacted by the Legislature of the State of Texas: That all county seats located in newly organized counties, more than five miles from the geographical center of the county by a majority of the votes cast at such elections held for the location of county seats be and the same are hereby declared to be the county seats of said counties until such time as the same may be removed by election.

And said elections at which said county seats were chosen and located shall be as valid and binding as if such county seats had received two-thirds of all the votes cast at such elections for county seats, and all counties organized between the taking effect of this act and any other act passed by this legislature affecting county seat elections where a vote is had for the location of a county seat, the place receiving a majority of the votes cast for county seats shall be the county seat of said county until the same is removed by a vote of the people in accordance with the law; provided that this act shall not apply to nor in any manner affect any county where a subsequent election has been held for the location of the county seat and the same has been removed from such place as was declared the county seat at the election held for the organization of said county.

Sec. 2. There being many counties in this State whose county seats are affected by this act, causing great confusion among the people, calculated to engender much bitterness among the inhabitants thereof, an imperative public necessity and an emergency exists for the suspension of the constitutional rule requiring bills to be read on three several days in each House, said rule is so suspended, and that this act shall take effect and be in full force from and after its passage, and it is so enacted.

[Note.—The foregoing act originated in the House and passed the same by two-thirds vote, ayes 87, noes 1; and passed the Senate by two-thirds vote, ayes 24, nays 24(?).]

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the tenth day of March, A. D., 1891, and was not signed by him, nor returned to the house in which it originated with his objections thereto within the time prescribed by the constitution, and thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

BUTCHERS.

- Sec. 1. Amends section 9 of act April 6, 1889; counties exempt from this act.
2. Emergency clause.

CHAP. 30.—[H. B. No. 52.] An Act to amend section 9 of an act entitled "An Act to require butchers and slaughterers of cattle to give a bond, and to prescribe penalties for the violation of the conditions of the same, and to prevent unlawful slaughtering and selling cattle," passed at the regular session of the Twenty-first Legislature, and approved April 6, 1889.

Section 1. Be it enacted by the Legislature of the State of Texas: That section 9 of an act entitled "An Act to require butchers and slaughterers of cattle to give a bond, and to prescribe penalties for the violation of the same, and to prevent unlawful slaughtering and selling of cattle," passed at the regular session of the Twenty-first Legislature and approved April 6, 1889, be so amended as to hereafter read as follows:

Section 9. Provided the provisions of this act shall in nowise apply to any of the following counties: Anderson, Bell, Gonzales, Coryell, Hamilton, Mills, Brown, Comanche, Lavaca, Llano, San Saba, Concho, Runnels, Coleman, Travis, Grayson, Cooke, Montague, Colorado, Bexar, Jasper, Newton, Orange, Jefferson, Polk, San Jacinto, Tyler, Chambers, Hardin, Liberty, Harrison, Smith, Upshur, Gregg, Wood, Rains, Bowie, Cass, Morris, Titus, Lee, Bastrop, Fayette, Hill, Johnson, Ellis, McLennan, Falls, Robertson, Milam, Brazos, Galveston, Brazoria, Matagorda, San Patricio, Guadalupe, Caldwell, Hays, Blanco, Comal, Tarrant, Wise, Parker, Jack, Dallas, Nacogdoches, San Augustine, Sabine, Shelby, Panola, Rusk, Hunt, Hopkins, Delta, Franklin, Camp, Angelina, Houston, Leon, Grimes, Madison, Kaufman, Rockwall, Fannin, Lamar, Red River, Van Zandt, Henderson, Cherokee, Bosque, Hood, Erath, Somerville, Collin, Denton, Trinity, Walker, Montgomery, Harris, Austin, Washington, Wharton, Fort Bend, Waller, Burleson, Limestone, Freestone, Navarro, Young, Karnes, Mason, Medina, Kimble, Kerr, Kendall, Bandera, Sutton, Gillespie, Williamson, Lampasas, Burnet, El Paso, Presidio, Brewster, Midland, Reeves, Marion.

Sec. 2. That justice may be speedily done to the citizens to be so exempted from the operations of said act creates an imperative public necessity and emergency that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect from passage, and it is so enacted.

[Note.—The foregoing act originated in the House, and passed the same by two-thirds vote ayes 79, noes 0; and passed the Senate by the following vote yeas 22, noes 1.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the tenth day of March, A. D. 1891, and was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the constitution, and thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

JUDICIAL DISTRICT—FIFTH.

Sec.

1. Amends section 5 of act of April 2, 1887; counties composing Fifth district; terms of court.

Sec.

2. Repealing clause.
3. Emergency clause.

CHAP. 31.—[H. B. No. 413.] An Act to amend section 5 of an act approved April 2nd, 1887, entitled "An act to amend Section 5 of an act approved February 6, 1884, entitled "an act to amend Sections 5, 7, 26 and 39 of an act entitled an act to redistrict the State into Judicial districts, and to fix the times for holding courts therein and to provide for the election of Judges and District attorneys in said districts at the next general election to be held on the first Tuesday after the first Monday in November, approved April 9, 1883.

Section 1. Be it enacted by the Legislature of the State of Texas: That Section 5 of an act approved April 2nd, 1887, entitled "An Act to amend Section 5 of an act approved Feby 6, 1884, entitled an act to amend Section 5, 7, 26 and 39 of an act entitled an act to redistrict the State into judicial districts and to fix the times for holding courts therein, and to provide for the election of judges and district attorneys in said districts, at the next general election to be held on the first Tuesday after

the first Monday in November 1884, approved April 9, 1883," be so amended that the same shall hereafter read as follows:

Section 5. The Fifth Judicial District shall be composed of the counties of Bowie, Cass, Marion, Morris, Titus, Franklin, and Camp and the district courts therein shall be held as follows:

In the county of Cass on the first Monday in February, and the fourth Monday in August and may continue in session four weeks.

In the county of Bowie on the fourth Monday after the first Monday in February, and the fourth Monday in August, and may continue in session five weeks.

In the county of Morris on the ninth Mondays after the first Monday in February and the fourth Monday in August, and may continue in session two weeks.

In the county of Titus on the eleventh Mondays after the first Monday in February, and the fourth Monday in August, and may continue in session two weeks.

In the county of Franklin on the thirteenth Mondays after the first Monday in February and the fourth Monday in August, and may continue in session two weeks.

In the county of Camp on the fifteenth Mondays after the first Monday in February and the fourth Monday in August, and may continue in session three weeks.

In the county of Marion on the eighteenth Mondays after the first Monday in February and fourth Monday in August, and may continue in session four weeks.

Sec. 2. That all laws and parts of laws in conflict herewith be, and the same are hereby repealed.

Sec. 3. The great amount of business accumulating on the docket of the district court of Bowie county creates an imperative public necessity and emergency for the suspension of the constitutional rule requiring bills to be read on three several days and this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act originated in the House and passed the same by two-thirds vote ayes 77, noes 0; and passed the Senate by two-thirds vote ayes 22; nays —.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the tenth day of March, A. D. 1891, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the constitution, and thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

RECORDS—VALIDATION OF IN CERTAIN COUNTIES.

Preamble.

Sec.

1. Records and muniments of title for lands in Archer, Wichita, Wilbarger, Baylor, Hardeman and Knox counties validated.

Sec.

2. Transcripts of records recorded in Clay county validated.
3. Emergency clause.

CHAP. 32.—[H. B. No. 234.] An Act validating the records of deeds, judgments and other muniments of title conveying or affecting lands in Archer, Wichita, Wilbarger, Baylor, Hardeman and Knox counties between February 10th, 1874 and April 23rd, 1879.

Whereas the counties mentioned in the caption of this bill, were generally supposed and recognized to have been attached to Clay County for judicial purposes from February 10th, 1874 to April 23d, 1879; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas: That the records of all deeds, judgments and all other muniments of title affecting lands lying in the counties of Archer, Baylor, Wilbarger, Wichita, Hardeman and Knox, or either of them, recorded in Clay county between February 10th, 1874, and April 23d, 1879, be and the same are hereby validated, and that said original deeds or certified copies thereof so recorded in Clay County between said dates, shall be admissible in evidence in any suit or suits as if the originals had been recorded in the proper counties.

Sec. 2. That the transcript or transcripts so recorded in Clay County heretofore made, or to be hereafter made to the respective counties are hereby validated, and said transcribed records as well as certified copies of same shall be deemed good and sufficient as if made from the original record in Clay County.

Sec. 3. The fact that there are a large number of landowners whose titles are dependent upon the record of their chain of title in Clay County between the dates above mentioned, creates an imperative public necessity and an emergency for the immediate passage of this act; therefore the constitutional rule requiring this bill to be read on three several days is hereby suspended, and this act shall take effect from and after its passage.

[Note.—The foregoing act originated in the house and passed the same by a vote of 78 yeas and no nays; and passed the senate—vote not given.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 10th day of March, A. D. 1891, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the constitution, and thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

EVIDENCE—SEDUCTION.

- Sec. 1. Amends exception 3, article 730, Code Criminal Procedure, as to persons competent to testify.
2. Emergency clause.

CHAP. 33.—[S. B. No. 61.] An Act to repeal exception 3, to Article 730, Chapter 7, title 8 of the Code of Criminal Procedure of the State of Texas in relation to persons competent to testify in criminal actions and to permit to testify in prosecutions for seduction, the female alleged to have been seduced.

Section 1. Be it enacted by the Legislature of the State of Texas: That exception 3 to Article 730, Chapter 7, title 8, of the Code of Criminal Procedure of the State of Texas, be and the same is hereby re-

pealed, and that hereafter, in prosecutions for seduction, under the provisions of the Penal Code, the female alleged to have been seduced shall be permitted to testify; but no conviction shall be had upon the testimony of the said female, unless the same is corroborated by other evidence tending to connect the defendant with the offense charged.

Sec. 2. Whereas, as the law now exists, the Defendant who seduced the female witness can testify and the seduced female cannot; therefore an emergency and imperative public necessity exists requiring the constitutional rule for bills to be read on three several days to be suspended, and said rule is hereby suspended.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 11th day of March, A. D. 1891, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the constitution, and thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

JUDICIAL DISTRICTS.—THIRTY-SECOND, THIRTY-NINTH AND FIFTIETH

Sec.

1. Counties composing Thirty-second district; terms of court.
2. Counties composing Thirty-ninth district; terms of court.
3. Counties composing Fiftieth district; terms of court.
4. District judges and district attorneys of Thirty-second and Thirty-ninth districts now acting to continue in office.

Sec.

5. Governor to appoint district judge and district attorney for Fiftieth district.
6. Process; grand and petit jurors.
7. Repeal of laws conflicting with this act.
8. Emergency clause.

CHAP. 34.—[H. B. No. 448.] An Act to reorganize the Thirty-second and Thirty-ninth Judicial Districts, and to create the Fiftieth Judicial District of the State of Texas, to fix the times for holding courts therein, to provide for the appointment and election of a Judge and a District Attorney in the Fiftieth Judicial District, and to repeal all laws in conflict herewith.

Section 1. Be it enacted by the Legislature of the State of Texas: That the Thirty-second Judicial District shall be composed of the counties of Nolan, Mitchell, Howard, Martin, Midland, Borden, and Ector, and the unorganized counties of Andrews, Gaines, Dawson, Terry, Yoakum, Glasscock, Crane, and Upton, and the terms of the District Court therein shall be held each year as follows:

In the county of Midland, on the first Mondays in February and September, and may continue in session two weeks.

In the county of Martin, on the third Mondays in February and September, and may continue in session two weeks.

In the county of Howard, on the fourth Mondays after the first Mondays in February and September, and may continue in session three weeks.

In the county of Nolan on the seventh Mondays after the first Mondays in February and September, and may continue in session four weeks.

In the county of Mitchell, on the eleventh Mondays after the first Mondays in February and September, and may continue in session six weeks.

In the county of Ector on the seventeenth Mondays after the first Mondays in February and September, and may continue in session two weeks.

In the county of Borden, on the nineteenth Mondays after the first Mondays in February and September, and may continue in session two weeks.

That the unorganized counties of Gaines, Terry, Yoakum and Andrews are hereby attached to the county of Martin for judicial purposes.

That the unorganized counties of Borden, Dawson, and Glasscock are hereby attached to the county of Howard for judicial purposes.

¹ The unorganized counties of Crane and Upton are hereby attached to Midland county for judicial purposes.

Sec. 2. The Thirty-ninth Judicial District shall be composed of the counties of Jones, Fisher, Scurry, Stonewall, Haskell, and Throckmorton, and the unorganized counties of Kent and Garza, and the terms of the District Court shall be held therein each year as follows:

In the county of Jones, on the first Mondays in February and August, and may continue in session five weeks.

In the county of Throckmorton on the fifth Mondays after the first Mondays in February and August, and may continue in session two weeks.

In the county of Haskell, on the seventh Mondays after the first Mondays in February and August, and may continue in session three weeks.

In the county of Fisher, on the tenth Mondays after the first Mondays in February and August, and may continue in session two weeks.

In the county of Scurry, on the twelfth Mondays after the first Mondays in February and August, and may continue in session two weeks.

In the county of Stonewall, on the fourteenth Mondays after the first Mondays in February and August, and may continue in session until the business is disposed of.

That the unorganized counties of Kent and Garza are hereby attached to Scurry County for judicial purposes.

Sec. 3. The Fiftieth Judicial District shall be composed of the counties of Baylor, Knox, Crosby, Floyd, Motley, Hale, Dickens, and Lubbock, and the unorganized counties of King, Lamb, Bailey, Cochran, Lynn, and Hockley, and the terms of the District Court shall be held therein as follows:

In the county of Crosby, on the first Mondays in February and August, and may continue in session two weeks.

In the county of Hale, on the second Mondays after the first Mondays in February and August, and may continue in session three weeks.

In the county of Floyd, on the fifth Mondays after the first Mondays in February and August, and may continue in session two weeks.

In the county of Motley, on the seventh Mondays after the first Mondays in February and August, and may continue in session two weeks.

In the county of Knox, on the ninth Mondays after the first Mondays in February and August, and may continue in session three weeks.

In the county of Baylor, on the twelfth Mondays after the first Mondays in February and August, and may continue in session six weeks.

In the county of Dickens, on the eighteenth Mondays after the first Mondays in February and August, and may continue in session two weeks.

In the county of Lubbock, on the twentieth Mondays after the first Mondays in February and August, and may continue in session until the business is disposed of.

That the unorganized county of King is hereby attached to Knox County for judicial purposes.

That the unorganized counties of Lamb and Bailey are hereby attached to Hale County for judicial purposes.

That the organized counties of Cochran, Lynn, and Hockley are hereby attached to the county of Lubbock for judicial purposes.

The unorganized county of Cottle, when organized, shall become a part of the Fiftieth Judicial District, and the terms of the District Court therein shall be fixed by the judge of said district as provided by law.

Sec. 4. The district judges and district attorneys heretofore elected and now acting for the Thirty-second and Thirty-ninth Judicial Districts herein mentioned shall continue the exercise of their said offices respectively.

Sec. 5. That immediately after the taking effect of this act, the Governor shall appoint a suitable person as district judge and a suitable person as district attorney for the Fiftieth Judicial District herein mentioned, who shall hold their offices until the next general election, at which time a judge and district attorney shall be elected in said district, and at each subsequent election according to existing laws.

Sec. 6. That all process issued or served before this act goes into effect returnable to the District Courts in said judicial districts shall be considered returnable to said courts in accordance with the terms as prescribed by this act, and all such process is hereby legalized; and all grand and petit juries drawn and selected under existing laws in any of the counties of said judicial districts shall be considered lawfully drawn and selected for the next terms of the District Courts of their respective counties held after this act takes effect, and all such process is hereby legalized and validated.

Sec. 7. That all laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

Sec. 8. Whereas, the rapid settlement of the counties mentioned in this act and the inability of the judges under former laws to transact all the business in the courts of the said several counties creates an imperative public necessity, and emergency exists requiring the suspension of the constitutional rules requiring bills to be read on three several days in each house, therefore said constitutional rule is suspended, and this act shall take effect and be in force from and after the fifteenth day of March, A. D. 1891, and it is so enacted.

[Note.—The foregoing act originated in the House, and passed the same by two-thirds vote, ayes 75, noes 1; and passed the Senate by two-thirds vote, ayes 21, noes none.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 13th day of March, A. D. 1891, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the constitution, and thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

CHATTEL MORTGAGES.

Sec.

1. Amends sections 2, 3 and 5 of act April 22, 1879.
- (2.) Mortgage to be kept on file subject to public inspection; filing of copy.
- (3.) Certified copy admitted in evidence, when.

Sec.

- (5.) When debt is paid satisfaction is to be entered of record, and original instrument delivered to the maker.
- Emergency clause.

CHAP. 35.—[H. B. No. 96.] An Act to amend sections 2, 3 and 5 of chapter 127, of an act approved April 22, A. D. 1879; an act in relation to chattel mortgages and other instruments intended to operate as mortgages or liens upon personal property, and the record thereof.

Section 1. Be it enacted by the Legislature of the State of Texas: That sections 2, 3 and 5 of an act in relation to chattel mortgages and other instruments intended to operate as mortgages of or liens upon personal property and the record thereof, and approved April 22, 1879, be so amended as to hereafter read as follows:

Sec. 2. Upon receipt of such instruments the clerk shall endorse thereon, the day and hour when the same was deposited in his office for record, and shall keep the same on file in his office for the inspection of all parties interested until satisfaction thereof shall be entered, as provided in section 5, of this act, provided, that if a copy be presented to the clerk for filing, instead of the original instrument, he shall carefully compare such copy with the original and the same shall not be filed unless it is a true copy thereof, and a copy can be filed only when the original has been witnessed by two subscribing witnesses or acknowledged or proven for record and certified as required in case of other instruments for the purpose of being recorded.

Sec. 3. A certified copy of any such instrument so filed as aforesaid, certified to under the hand and seal of the clerk of the county court in whose office the same shall have been filed, shall be admitted in evidence in like manner as the original might be, unless the execution of the original has been denied under oath by the party sought to be charged thereby; provided, that the party desiring to use such instrument shall file the same in the papers of the cause before announcing ready for trial and not afterwards; and such certified copy shall in all cases be received as evidence of filing and entry thereof in chattel mortgage record according to the endorsement of the clerk thereon.

Sec. 5. When the debt secured by any such instrument shall have been paid or satisfied, it shall be the duty of the mortgagee, his assignee, attorney or legal representative to enter or cause to be entered and attested by the clerk, as aforesaid, satisfaction thereof, in the record book in which the instrument is entered, which may be done under the head of "remarks," and any instrument acknowledging payment or satisfaction need not be recorded at length, but the entry as above provided showing the same has been paid shall be sufficient, and the original instrument or copy thereof on file shall then be delivered to the mortgagor or maker upon demand, or mail the same to him.

The fact that chattel mortgages which have been satisfied are accumulating and required to be kept and preserved in the county clerk's office under existing laws, and a simple method of filing and proving chattel mortgages is necessary, makes it an imperative public necessity, and an emergency that the constitutional rule requiring this bill to be read on three several days, be suspended and this act take effect and be in force from and after its passage.

[Note.—The foregoing act originated in the House and passed the same; (vote not given) and passed the Senate by a vote of 21 yeas, no nays.]

Approved March 23, 1891.

SCHOOL FUND—INTEREST ON COUNTY BONDS.

Sec.

1. County bonds held by school fund apportioned between the parent county and newly created county, when.
2. Commissioners court of new county

Sec.

- to levy tax for pro rata share of said debt; tax in unorganized counties for pro rata of said debt.
3. Emergency clause.

CHAP. 36.—[S. B. No. 148.] An act to provide the manner of collecting the interest and sinking fund on certain bonds held by the school fund of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas: When any new county has been created wholly and entirely out of any existing county, if any bonds were legally issued by the parent county prior to the severance of a part of its territory that such of said bonds and the coupons due thereon, as are held by the school fund of the State of Texas, shall be apportioned between the parent county and the county or counties created out of the parent county by the Comptroller of Public Accounts on the basis now provided by law.

Sec. 2. It shall be the duty of the Commissioners Court of the parent county or any county created out of the parent county, which has now or may hereafter be organized, to levy and have collected on all property in such county, a tax to pay said county's pro rata share of the debt. It shall be the duty of the Commissioners Court of any county to which any unorganized county may be attached for judicial purposes, to levy and have collected on all property in said unorganized county owned by resident citizens thereof, a tax for the purpose of paying said county's part of the debt; and it shall be the duty of the Comptroller of Public Accounts to assess and collect on all property in such unorganized counties owned by non residents, a tax to pay said counties' pro rata part of said debt; Provided, that nothing in this act shall be construed to authorize the levy and collection of any tax in excess of that now allowed by the constitution of this State.

Sec. 3. Whereas, the interest due the school fund on a large number of the bonds mentioned in this act is now past due and unpaid, therefore an emergency exists and an imperative public necessity, which requires that the constitutional rule requiring a bill to be read on three several days in each house be suspended, and such rule is hereby suspended.

Approved March 23, 1891.

TAXATION—ASSESSMENT.

Sec.

1. Pretended transfer of coin, notes or bonds deemed prima facie a fraud, when.
2. Parties to such fraudulent sale guilty of a misdemeanor; penalty.

Sec.

3. Oath required.
4. Emergency clause.

CHAP. 37.—[S. S. B. No. 159.] An Act to define, prevent and punish fraud and evasion in the assessment and collection of the public revenue, arising upon money in coin, notes or bonds subject to taxation, and to provide a punishment therefor.

Section 1. Be it enacted by the Legislature of the State of Texas: That any evasion by any means of artifice or temporary or fictitious sale exchange or pretended transfer upon any bank books of gold and silver coin, bank notes or other notes or bonds, subject to taxation under the laws of this State, for United States non-taxable treasury notes or any notes or bonds not so subject to taxation, and any such pretended sale, exchange or

transfer not made in good faith, and by actual exchange and delivery of the funds so sold, exchanged or transferred and made only by entry on bank books, or by any express or implied understanding not to immediately make a bona fide and permanent sale, shall be deemed *prima facie* to be a fraud upon the public revenue of this state.

Sec. 2. The president, cashier or secretary of any banking or other corporation, or any person that may be a party or privy to such fraudulent sale, exchange or transfer shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than ten dollars nor more than one hundred dollars, and in addition thereto shall be confined in the county jail not less than ten days nor more than thirty days.

Sec. 3. All Assessors of taxes in this state shall require all tax payers when assessed by them, to make oath as to any such sale, exchange or transfer made by them on the first day of January or within sixty days before said first day of January of any year for which any such assessment is made, as to the good faith and bona fide business transaction of any such sale, exchange or transfer, as above set forth, if any such should have been made by them, and if it should be disclosed that any such pretended sale, exchange or transfer have been made for the purpose of evading taxation, then and in that event the assessor shall list and render against such person the coin, bank notes or other notes or bonds subject to taxation under the laws of this state, provided that if any person shall make a false affidavit as to any of the foregoing facts, he shall be deemed guilty of perjury and be punished as is now provided by law.

Sec. 4. The great importance of the subject treated of in this act and the near approach of the time for making assessment for taxes in this state creates an emergency and an imperative public necessity requiring the suspension of the constitutional rule requiring bills to be read on three several days, and said rule is so suspended.

Approved March 23, 1891.

INSPECTION OF HIDES AND ANIMALS.

Sec.

1. Counties exempt from this act; inspectors of border counties appointed; their terms of office; fees;

Sec.

duties, counties exempt from inspection of hides; repealing clause.
2. Emergency clause.

CHAP 38.—[H. B. No. 211.] An act to amend section 1 of an act entitled "an act to amend section 46, chapter 25, of the acts of 1885, entitled an act to amend chapter 79, of the acts of 1883, entitled an act to amend chapter 48 of the acts of 1887, an act to amend section 46 of an act to encourage stockraising and to protect stockraisers, approved April 22nd 1879, and amended April 4th, 1881, and April 12th, 1880, and March 27th, 1887, and March 29th, 1889.

Section 1. Be it enacted by the Legislature of the State of Texas: That section 46 of the above entitled act shall hereafter read as follows:—The counties of Anderson, Austin, Angelina, Bell, Bowie, Brazos, Bastrop, Bosque, Burleson, Brazoria, Caldwell, Camp, Calhoun, Cass, Chambers, Cherokee, Collin, Colorado, Cooke, Dallas, Delta, Denton, Ellis, Erath, Fannin, Franklin, Falls, Freestone, Gonzales, Eastland, Stephens, Fayette, Fort Bend, Galveston, Goliad, Grayson, Gregg, Grimes, Hardin, Harrison, Hays, Henderson, Hill, Hood, Hunt, Hopkins, Houston, Jackson, De

Witt, Jasper, Jefferson, Johnson, Kaufman, Lamar, Lee, Leon, Lampasas, McLennan, Madison, Marion, Montgomery, Montague, Morris, Nacogdoches, Newton, Orange, Panola, Parker, Polk, Palo Pinto, Raines, Red River, Robertson, Rockwall, Rusk, Sabine, San Augustine, San Jacinto, Shackelford, Shelby, Smith, Tarrant, Titus, Trinity, Tyler, Upshur, Van Zandt, Walker, Washington, Wharton, Wise, Wood, Jack, Harris, Chambers, Clay, Young, Wheeler, Lavaca, Nueces, Bee, Refugio, Limestone, San Patricio, Somervell, Matagorda, Waller, Karnes, Victoria, Milam, Live Oak, Williamson, Miller, Liberty, Wichita, Wilbarger, Archer, Hardeman, Childress, Hall, Collingsworth, Donley, Gray, Armstrong, Briscoe, Floyd, Randall, Kendall, Comal, Travis, Navarro, Brown, Coryell, Hamilton, Lampasas and Mills, are hereby exempt from the operation of this act; and that the provisions of the same shall in nowise relate or apply to the aforesaid counties; provided, that in those counties, bordering on the line of the State, except those bordering on Red River, and the Rio Grande where there is a depot or place for the shipment of cattle, no inspector of hides and animals shall be elected, but one for each of such counties shall be appointed by the Governor, who shall hold office for two years, and until his successor shall be appointed, and said inspector, so appointed, to take the constitutional oath of office and give the bond now required of inspectors of hides and animals, and such inspector shall receive the same fees now allowed to inspectors of hides and animals and perform the same duties; provided, that such cattle shall not be subject to inspection on board of any railroad unless the same have been placed on board of such train for the purpose of evading the provisions of this act; and provided further that the counties of Limestone, Fayette, Lavaca, Gonzales, Colorado, Bell, Calhoun, Hays, Guadalupe, Caldwell, Blanco, Llano, Kendall, Comal, Houston, Austin, Johnson, Hill, Ellis, Jackson, Victoria, De Witt, Freestone, Hamilton, Williamson, Milam, Live Oak, Harris, Bosque, Erath, Hood, Somervell, Liberty, Coryell, Lampasas, Mills, Wichita, Wilbarger, Hardeman, Childress, Hall, Collingsworth, Donley, Gray, Armstrong, Briscoe, Floyd, Randall, Kendall, Comal, Fannin, Camp, Delta, Franklin, Hopkins, Hunt and Navarro shall be exempt from all laws regulating inspection of hides; that all laws and parts of laws in conflict with the provisions of this act are hereby repealed.

Sec. 2. The great necessity for this law, creates an imperative public necessity and emergency requiring that the constitutional rule that bills be read on three several days in each house be suspended, and the same is therefore suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act originated in the house and passed the same by a vote of 78 yeas, and no nays; and passed the senate by a vote of 22 yeas and no nays.]

Approved March 23, 1891.

JUDICIAL DISTRICTS—TWENTY-EIGHTH AND FORTY-NINTH.

Sec.

1. Amends act of March 25, 1889.
(Sec. 28.) Counties composing Twenty-eighth district; terms of court.
2. Forty-ninth district created; counties in same; terms of court.
3. Encinal county is attached to Webb county.
4. Judge and district attorney for

Sec.

- Twenty-eighth district to continue in office.
5. Governor to appoint judge and district attorney of Forty-ninth district.
6. Return of process.
7. Repealing clause.
8. Emergency clause.

CHAP. 39.—[H. B. No. 325.] An act to amend an act approved March 25th, 1889, being an act to amend an act to re-enact section 28, of an act to redistrict the State into Judicial Districts, and fix the time for holding court therein, and to provide for the election of Judges and District Attorneys in said District, at the next general election to be held on the first Tuesday after the first Monday in November, 1884, approved April 9th, 1883; and to amend said section 28 of said act approved February 26th, 1885, and to create the 49th Judicial District, to provide for the appointment and election of a District Judge and District Attorney therein, and to repeal all laws and parts of laws in conflict herewith.

Section 1. Be it enacted by the Legislature of the State of Texas: That section 28 of the above recited act, approved April 9th, 1883, be so amended as to hereafter read as follows:

Section 28. The 28th Judicial District of the State of Texas shall be composed of the counties of Cameron, Hidalgo, Starr and Nueces, and the District Courts shall be therein held as follows:

In the County of Cameron, on the first Monday in February and September, and may continue in session four weeks.

In the County of Hidalgo, on the fourth Monday after the first Monday in February and September, and may continue in session two weeks.

In the County of Starr, on the sixth Monday after the first Monday in February and September, and may continue in session three weeks.

In the County of Nueces, on the ninth Monday after the first Monday in February and September and may continue in session six weeks.

Sec. 2. The forty-ninth Judicial District is hereby created, and shall be composed of the Counties of Duval, Encinal, Webb and Zapata, and the District Courts shall be therein held as follows:

In the County of Webb, on the first Monday in January, May and September, and may continue in session six weeks.

In the County of Duval, on the fifth Monday before the first Monday in May, and on the sixth Monday after the first Monday in September, and may continue in session three weeks.

In the County of Zapata, on the second Monday before the first Monday in May, and on the ninth Monday after the first Monday in September, and may continue in session two weeks.

Sec. 3. The unorganized County of Encinal is hereby attached to the County of Webb for judicial purposes.

Sec. 4. The District Judge and the District Attorney, heretofore elected and now acting for the 28th Judicial District, shall continue the exercise of their said offices respectively within said District as herein defined.

Sec. 5. That immediately after the taking effect of this act, the Governor shall appoint a suitable person as District Judge, and a suitable person as District Attorney in the 49th Judicial District created by this act, who shall hold their office until the next general election, at which time and at subsequent elections a District Attorney and a District Judge shall be elected in said Districts according to existing laws.

Sec. 6. That all process issued or served before this act goes into effect, returnable to the District Court of any of the Counties mentioned in this act, shall be considered as returnable to the said Court, at the next

ensuing term to be held in said county, under the provisions of this act, and such process is hereby validated; and all grand and petit juries drawn and selected under the law as it now exists, shall be considered as legally drawn and selected for the terms of Court as provided in this act.

Sec. 7. That all laws and parts of laws in conflict with any of the provisions of this act be, and the same are hereby repealed.

Sec. 8. Whereas the increase in the population of the Counties named in this act, and the inability of the District Judge of the 28th Judicial District, as now constituted, to transact all the business in the District Court of said Counties, creates an imperative public necessity and an emergency exists wherefore the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect from and after its passage and it is so enacted.

[Note.—The foregoing act originated in the House, and passed the same by a vote of 82 yeas and no nays; and passed the Senate by a vote of 21 yeas and 2 nays.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 13th day of March, A. D. 1891, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the constitution, and thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

AGRICULTURAL AND MECHANICAL COLLEGE AND PRAIRIE VIEW NORMAL SCHOOL.

Sec.

1. Apportions between said schools moneys received from the United States.

Sec.

2. L. S. Ross, President, etc., to receive money and give receipts.
3. Emergency clause.

CHAP. 40.—[S. B. No. 235.] An act to apportion between the Agricultural and Mechanical College and Prairie View State Normal School, the fund due Texas under an act of the 51st Congress of the United States, for the more complete endowment and maintenance of colleges established under an act of Congress approved July 2, 1862, and to designate a person to whom payments of said money shall be made.

Section 1. Be it enacted by the Legislature of the State of Texas: That all moneys apportioned to the State of Texas under an act of the fifty first Congress of the United States, entitled "An act to apply a portion of the proceeds of the public lands to the more complete endowment and support of the colleges for the benefit of Agricultural and Mechanical Arts, established under the provisions of an act of Congress approved July 2, 1862," shall be apportioned between the Agricultural and Mechanical College and the Prairie View State Normal School on the following basis, to-wit: three fourths to the Agricultural and Mechanical College, and one fourth to the Prairie View State Normal School.

Sec. 2. L. S. Ross, President of the Agricultural and Mechanical College, or his successors in office are hereby authorized to receive and receipt for all moneys due and to become due to the Agricultural and Mechanical College and the Prairie View State Normal School, under the act of Congress aforesaid.

Sec. 3. The fact that the treasurer of the United States refuses to pay any moneys now due the State under the said act of Congress until the

legislature has apportioned said funds between the aforesaid institutions, creates an imperative public necessity requiring the suspension of the constitutional rule requiring bills to be read on three several days, and it is so suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act originated in the senate and passed the same by a vote of 25 yeas, and no nays; and passed the house by a vote of 80 yeas and no nays.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 14th day of March A. D. 1891, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the constitution, and thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

RAILROADS—SEPARATE COACHES REQUIRED.

Sec.

1. Railroads to provide separate coaches for white and negro passengers.
2. Term "negro" defined.
3. Each compartment deemed a separate coach; lettering on coach to show race for which it is set apart.
4. Penalty for failure to provide separate coaches; each trip a separate offense.
5. Passenger riding in coach not for his race is guilty of misdemeanor, when; penalty.
6. This act does not apply to nurses travelling in same coach with employers; does not apply to freight

Sec.

- trains carrying passengers; does not prevent hauling of sleeping cars or chair cars for white or negro passengers separately.
7. Law to be posted in conspicuous place in passenger depot and coach.
8. Does not apply to excursion train for either race.
9. Duty and authority of conductors.
10. Fines collected under this act go to available school fund; when prosecutions may be instituted.
11. Repealing clause.
12. Emergency clause.

CHAP. 41.—[S. B. No. 97.] An act to require railroad companies in this State to provide separate coaches for white and negro passengers, and to prohibit passengers from riding in coaches other than those set apart for their race, and to confer certain powers upon conductors and to provide penalties for the violation of this act.

Section 1. Be it enacted by the Legislature of the State of Texas: That every railroad company, lessee, manager or receiver thereof, doing business in this state as common carriers of passengers for hire shall provide separate coaches for the accommodation of white and negro passengers, which separate coaches shall be equal in all points of comfort and convenience.

Sec. 2. That the term negro as used herein includes every person of African descent as defined by the statutes of this state.

Sec. 3. Each compartment of a coach divided by a good and substantial wooden partition with a door therein shall be deemed a separate coach within the meaning of this act, and each separate coach shall bear in some conspicuous place appropriate words in plain letters indicating the race for which it is set apart.

Sec. 4. Any railroad company, lessee, manager or receiver thereof which shall fail to provide its trains, carrying passengers, with separate coaches as above provided for, shall be liable for each and every such failure to a penalty not less than one hundred nor more than one thousand dollars to be recovered by suit in the name of the State in any court of competent jurisdiction. And each trip run with any such train without such separate coaches shall be deemed a separate offense.

Sec. 5. If any passenger upon a train provided with separate coaches

shall ride in any coach not designated for his race, after having been forbidden to do so by the conductor in charge of the train, he shall be guilty of a misdemeanor and upon conviction shall be fined not less than five nor more than twenty-five dollars.

Sec. 6. The provisions of this act shall not be so construed as to prohibit nurses from traveling in the same coach with employers or employes upon the train in discharge of their duties; nor shall it be construed to apply to such freight trains as may carry passengers in cabooses, neither shall it apply to street railway cars; provided, that nothing herein contained shall be construed to prevent railroad companies in this state from hauling sleeping cars or chair cars attached to their trains to be used exclusively by either white or negro passengers separately but not jointly.

Sec. 7. Every railroad company carrying passengers in this state shall keep this law posted in a conspicuous place in each passenger depot, and in each passenger coach provided for in this act.

Sec. 8. The provisions of this act shall not apply to any excursion train run strictly as such for the benefit of either race.

Sec. 9. Conductors of passenger trains provided with separate coaches shall have the authority to refuse any passenger admittance to any coach in which he is not entitled to ride under the provisions of this act, and the conductor in charge of the train shall have the authority, and it shall be his duty to remove from a coach any passenger not entitled to ride therein under the provisions of this act. And upon his failure or refusal to do so, shall be guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than five, and not more than twenty-five dollars.

Sec. 10. All fines collected under the provisions of this act shall go to the available common school fund of the county in which conviction is had. Prosecutions under the provisions of this act may be instituted in any court of competent jurisdiction in any county through or into which said railroad may be run or have an office.

Sec. 11. All laws and parts of laws in conflict herewith are hereby repealed.

Sec. 12. There being no adequate law on this subject creates an emergency and an imperative public necessity exists for the suspension of the constitutional rule requiring bills to be read on three several days and the same is hereby suspended.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the nineteenth day of March, A. D. 1891, but was not signed by him nor returned to the house in which it originated with his objection thereto within the time prescribed by the constitution, and thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

JUDICIAL DISTRICT—THIRTIETH.

- Sec. 1. Counties composing Thirtieth district; terms of court.
2. Act takes effect from passage; repealing clause.
3. Emergency clause.

CHAP. 42.—[S. B. No. 269.] An Act to reorganize the thirtieth Judicial District and to fix the times for holding Courts therein.

Section 1. Be it enacted by the Legislature of the State of Texas: That the thirtieth Judicial District shall be composed of the counties of

Young, Archer, Clay and Wichita, and terms of the District Court shall be held therein each year as follows:

In the county of Young on the fifth Mondays after the first Mondays in January and July and may continue in session three weeks.

In the county of Archer, on the eighth Mondays after the first Mondays in January and July and may continue in session two weeks.

In the county of Clay, on the tenth Mondays after the first Mondays in January and July and may continue in session six weeks.

In the county of Wichita, on the sixteenth Mondays after the first Mondays in January and July and may continue in session until the business is disposed of.

Sec. 2. That this act take effect and be in force from and after its passage and all laws and parts of laws in conflict herewith be and the same are hereby repealed.

Sec. 3. The fact that the near approach of the end of this session renders it improbable that this bill can be considered on three several days, and the fact that it is desired and proper that this bill should go into effect at once, creates an emergency and an imperative public necessity for the suspension of the constitutional rule requiring bills to be read on three several days and that this act take effect from and after its passage and it is so enacted.

[Note.—The foregoing act originated in the Senate and passed the same by a vote of 20 yeas and 1 nay; and passed the house by a vote of 73 yeas and 1 nay.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the nineteenth day of March, A. D. 1891, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the constitution, and thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

COKE COUNTY.

Sec.

1. Amends section 5 of act of March 13, 1889.
- (5.) Coke county attached to Fifty-first judicial, Eleventh congress-

Sec.

- sional, Twenty-eighth senatorial and Eightieth representative districts.
2. Emergency clause.

CHAP. 43.—[H. B. No. 572.] An Act to amend section 5 of an act to create the county of Coke out of Tom Green County and to provide for its organization, approved March 13, 1889.

Section 1. Be it enacted by the Legislature of the State of Texas: That section 5 of an act to create the county of Coke out of Tom Green County and to provide for its organization approved March 13th, 1889, be and the same is hereby amended so as to hereafter read as follows, to wit:

Sec. 5. That the county of Coke is hereby attached to the fifty first judicial district for judicial purposes, to the eleventh congressional, twenty eighth senatorial, and to the eightieth representative districts for purposes of representation.

Sec. 2. The fact that the District Court will meet in less than ninety days after the adjournment of the Legislature and the lateness of the session, creates an imperative necessity and emergency that the constitu-

tional rule requiring bills to be read on three several days be suspended, it is so suspended, and this act shall take effect and be in force from and after its passage.

[Note.—The foregoing act originated in the house and passed the same by a vote of 77 yeas and no nays; and passed the senate by a vote of 22 yeas and no nays.]

Approved March 30, 1891.

CITIES AND TOWNS—VOTING REGULATED.

Sec. 1. Proceedings where right to vote is challenged.

2. Emergency clause.

CHAP. 44.—[S. B. No. 335.] An Act to regulate voting in cities and towns of ten thousand inhabitants or more.

Section 1. Be it enacted by the Legislature of the State of Texas: That in any election, state, county or municipal, being held in any city or town of ten thousand inhabitants or more according to the last preceeding United States census, when the right to vote, of any elector offering to vote is challenged the following proceedings shall be had:

The judges of election shall refuse to accept such vote of such elector unless in addition to his own oath, he proves by the oath of one well known resident of the ward, that he is a qualified voter at such election and in such ward.

When such vote is accepted the judges shall cause the clerk of election to make a minute of the name of the elector and the party testifying under oath as to his qualifications, and such memoranda shall be kept by the clerk of the county court for six months after such election is held, subject to order of the district judge.

Whenever the right of an elector to vote is challenged the word "challenged" shall be entered on the ballot if accepted by the judges. Any elector voting at any election who does not possess the legal qualifications shall be punished as now provided by law for illegal voting, and any person swearing falsely as to his own qualifications or those of a challenged elector shall be punished as now provided by law for false swearing.

Section 2. The fact that all municipal elections will be held on the first Tuesday in April, and the near approach of the close of the session creates an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended and that this act take effect from and after its passage, and it is so enacted.

[Note.—The foregoing act originated in the Senate, and passed the same by a vote of yeas 28 nays 1; and passed the House by a vote of yeas 76 nays 1.]

Approved March 30, 1891.

EXPRESS COMPANIES.

Sec.

1. Express companies declared common carriers; articles to be delivered at nearest office by carrier; dangerous articles; compensation.

Sec.

2. Rates to be fixed by the railroad commission.
3. Emergency clause.

CHAP. 45.—[H. B. No. 275.] An act to regulate rates or charges to be made by express companies for the transportation of all such articles of freight, money, papers and packages of any kind; to require such express companies to receive and promptly deliver same at the express office nearest destination and to make all such express companies subject to the control and regulation of the railroad commission of Texas, and to prescribe the penalties for the violation of this act.

Section 1. Be it enacted by the Legislature of the State of Texas: That every person, firm or corporation, which shall do the business of an express company, upon railroads or otherwise, in this state, by the carrying of any kind of property, money, papers, packages or other things, are hereby declared to be common carriers, and shall receive, safely carry and promptly deliver at the express office nearest destination every such article as may be tendered to them, and in the carriage of which they are engaged; provided, that no such company shall be compelled to carry any gun powder, dynamite, kerosene, naptha, gasoline, matches or other dangerous or inflammable oils, acids or materials, except under such regulations as may be prescribed by the railroad commission. It shall be unlawful for any such person, firm or corporation so engaged to demand or receive for such service other than reasonable compensation.

Sec. 2. The railroad commission of the State of Texas shall have power, and it shall be its duty to fix and establish reasonable and just rates of charges for each class or kind of property, money, papers, packages and other things to be charged for, and received by each express company on all such property, money, papers, packages and things which by the contract of carriage are to be transported by such express company, between points wholly within this state, which rates or charges may be made to apply to all such companies, and may be changed or modified by said Commission from time to time in such manner as may become necessary. Said Commission shall have the same power to make and prescribe such rules and regulations for the government and control of such express companies as is or may be conferred upon said Commission for the regulation of railroads.

Sec. 3. Every express company doing business in this state which shall demand or receive a greater compensation than that which may be prescribed and fixed by the said Railroad Commission for the transportation of any class or kind of property, money, papers, packages or things, shall be deemed guilty of extortion, and shall forfeit and pay to the State of Texas a sum not to exceed five hundred dollars for each offense; provided, that if it shall appear that such violation was not wilful, said company shall have ten days to refund such over charges or damages, in which case the penalty shall not be incurred. And the said Commission shall have authority and it shall be its duty to sue for and recover the same in the same manner as may be prescribed by law for like suits against railroad companies.

Sec. 4. The said Commission shall have authority and it shall be its duty to call upon such express companies for reports, and investigate their books in the same manner as may be prescribed by law for the regulation of railroad companies, and the said Commission shall have power and authority to institute suits, sue out such writs and process as may be applicable and authorized for the regulation of railroad companies. All

laws, rules and regulations made and prescribed for the government and control of railroads in so far as they are applicable, shall be of equal force and effect against all express companies.

Sec. 5. The fact that there is no law for the regulation of express companies in the transportation of freights, and the near approach of the close of the present session creates an imperative public necessity and an emergency necessitating the suspension of the constitutional rule requiring bills to be read on three several days, and it is so suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act originated in the house and passed the same by a vote of 83 yeas and 2 nays, and passed the senate—vote, yeas and nays not given.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the twenty-first day of March A. D. 1891, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the constitution, and thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

JUDICIAL DISTRICT—FORTY-SEVENTH.

Sec.

1. Terms of court in Forty-seventh district.

2. Unorganized counties; where attached for judicial purposes.

Sec.

3. Repealing clause.

4. Emergency clause.

CHAP. 46.—[S. B. No. 193.] An Act to prescribe the times for holding the terms of the District Court in the 47th judicial district of Texas, and to repeal all laws and parts of laws in conflict therewith.

Section 1. Be it enacted by the Legislature of the State of Texas: That the terms of the District Court in the several counties comprising the 47th Judicial District of Texas shall be held as follows:

In the county of Potter on the first Mondays in March and September and may continue in session three weeks.

In the county of Swisher on the second Mondays in April and October and may continue in session two weeks.

In the county of Randall on the fourth Mondays in April and October and may continue in session two weeks.

In the county of Deaf Smith on the second Mondays in May and November and may continue in session two weeks.

In the county of Oldham on the fourth Mondays in May and November and may continue in session two weeks.

In the county of Hartley on the second Mondays in June and December and may continue in session two weeks.

In the county of Sherman on the fourth Mondays in June and December and may continue in session two weeks.

Sec. 2. The unorganized county of Dallam is hereby attached to Hartley county for judicial purposes.

The unorganized county of Moore is hereby attached to Potter county for judicial purposes.

The unorganized county of Palmer is hereby attached to Deaf Smith county for judicial purposes.

The unorganized counties of Bailey and Lamb are hereby attached to Hale county for judicial purposes.

The unorganized county of Castro is hereby attached to Oldham county for judicial purposes.

Sec. 3. That all laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

Sec. 4. The fact that several new counties have been organized recently in the 47th Judicial District requires the immediate passage of this act, and creates an emergency and a public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act go into immediate effect, and it is so enacted.

[Note.—The foregoing act originated in the Senate, and passed the same by a vote of 26 yeas, and no nays; and passed the House by a vote of 72 yeas and no nays.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the twentieth day of March, A. D. 1891, but was not signed by him, nor returned to the House in which it originated with his objections thereto within the time prescribed by the constitution, and thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

JUDICIAL DISTRICT—SECOND.

Sec.

1. Terms of court in second district.
2. Return of process.

Sec.

3. Repealing clause.
4. Emergency clause.

CHAP. 47.—[S. H. B. No. 553.] An Act to change the times for holding the District courts in the second judicial district of the State of Texas, to repeal all laws and parts of laws in conflict with this act, and to provide for the return of all writs and process returnable to the district courts of said counties affected by this act that have been heretofore issued by said courts and that may hereafter be issued before this act shall take effect, and made returnable to the terms of said courts as now fixed by law and make the same as valid and binding as if no change had been made.

Section 1. Be it enacted by the Legislature of the State of Texas: That the second judicial district of the State shall be composed of the counties of Sabine, San Augustine, Nacogdoches, Shelby and Cherokee, and the district courts shall be held therein as follows:

In the county of Sabine on the first Mondays in February and September and may continue in session two weeks.

In the county of San Augustine, on the second Mondays after the first Mondays in February and September and may continue in session three weeks.

In the county of Nacogdoches, on the fifth Mondays after the first Mondays in February and September and may continue in session four weeks.

In the county of Shelby, on the ninth Mondays after the first Mondays in February and September and may continue in session four weeks.

In the county of Cherokee, on the thirteenth Mondays after the first Mondays in February and September and may continue in session until the business is disposed of.

Sec. 2. That all writs and process returnable to the district courts as heretofore fixed in the counties affected by this act, and all such writs and process that may hereafter be issued before this act shall take effect, and

made returnable to the terms of said district courts as now fixed by law, shall be as valid and binding as if no change had been made.

Sec. 3. That all laws and parts of laws in conflict with this act are hereby repealed.

Sec. 4. The near approach of the close of the session, and the near approach of the time for holding the regular term of the district court in Shelby county, and the great necessity that exists for an extension of the time for holding district court in the said county of Shelby create an emergency and imperative public necessity for the suspension of the constitutional rule requiring bills to be read on three several days, and it is enacted that said rule be and the same is hereby suspended and it is so enacted that this act shall take effect and be in force from and after its passage.

[Note.—The foregoing act originated in the house and passed the same by a vote of 79 yeas and no nays; and passed the senate by a vote of 21 yeas and no nays.)

Approved March 31, 1891.

ROADS—COUNTY TAX.

Sec.

1. Commissioners court to levy tax, when; no notice required of petition for election.
2. Notice of election, how given; expenses of election; time of holding election.
3. Qualified voters only can vote; tickets, how prepared.

Sec.

4. Levy of tax, how made; petition for repeal, when granted; petition for another election; proof to support petition for repeal.
5. No bonds shall be issued under this act.
6. Emergency clause.

CHAP. 48.—[H. B. No. 349.] An Act to carry into effect the constitutional amendment empowering counties to determine by vote whether 15 cents road tax shall be levied by County Commissioners Court.

Section 1. Be it enacted by the Legislature of the State of Texas: That the Commissioners court of any county shall, upon presentation to it, at any regular session, of a petition signed by 200 qualified voters, they being property tax payers of the county, to determine whether there shall be levied upon the property within said county, by said Commissioners court, a road and bridge tax, not to exceed fifteen cents on the one hundred dollars worth of property under the provisions of the amendment of 1889, to the constitution of the State of Texas, adopted in 1890. It shall not be necessary to give any notice of such petition before the court can act on the same, but the court may act thereon without notice, and may make an order for such election, fixing the amount to be levied not to exceed fifteen cents on the one hundred dollars, the election to take place at any time thereafter, not less than twenty nor more than ninety days from the date of making the order therefor.

Sec. 2. It shall not be necessary to give any formal notice of such election, except the County Judge shall issue his election proclamation, and the fact that such election is to be held shall be published in the newspapers of the county as fully as practicable, and tickets for the election shall be printed by the county and sent to each voting precinct by the County Judge before the election opens, and as long before such time as practicable. The expenses of the election shall be paid for by the county. If an election be ordered within ninety days of a general election, it shall be held on the day of the general election, and as elec-

tions on other questions are held, but otherwise the commissioners court shall order a special election to determine whether said tax shall be levied, which shall be conducted as other elections, and the officers to conduct the same shall be appointed as in other cases.

Sec. 3. Only qualified voters who pay a property tax in the county shall be permitted to vote at such election. The tickets printed and to be voted shall have written or printed on them the words: "For the tax," and "Against the tax," and those who favor the tax shall vote the ticket "For the tax," and those who oppose the tax shall vote the ticket, "Against the tax."

Sec. 4. If at any such election the majority of the qualified voters voting thereat shall vote for such tax, it shall not be necessary to make further proclamation of that fact than to count the votes as in other cases, and officially announce the result, and the said Commissioners Court shall thereby be authorized and required to levy a road and bridge tax in the same manner that other taxes are levied, in the amount specified in said order for such election, never to exceed 15 cents on the \$100.00 worth of property. Such levy shall be made at the same time other county taxes are levied, if such election is held in time thereof, but otherwise, it may be made at any time before the rolls are made out and settlement effected. If, at the election, the proposition for said tax shall carry, no petition for its repeal shall be granted in less than two years. But if it fails to carry, another petition may be granted in one year, but not sooner, and the order granting the second or any subsequent petition may fix a greater or less rate of levy not to exceed fifteen cents on the one hundred dollars worth of property, and if no greater rate is levied for any one year the Commissioners Court may lower the rate for the next year without a petition therefor. An election to repeal the levy may be ordered and held as in other cases, but there must be satisfactory proof presented to said Commissioners Court that there is great dissatisfaction with such tax and that it is probable that a majority of the citizens of the county who are authorized to vote for said tax would vote for a repeal of the law, and unless such proof be made the petition to repeal shall not be granted.

Sec. 5. Provided that no bonds shall ever be issued under the provisions of the act.

Sec. 6. Whereas, there is no law in force in this state putting in operation the amendment to the constitution and to provide for elections to determine whether such tax shall be levied, and whereas, many counties in this state desire to hold such elections and levy said tax at the time of making the general tax levy for the county, therefore an emergency and public necessity exists that this act take effect and be in force from and after its passage.

[Note.—The foregoing act originated in the house and passed the same—vote not given. And passed the senate—vote not given.]

Approved April 1, 1891.

LAWS—REVISION OF.

Sec.

1. Governor to appoint three commissioners to revise the laws.
2. To adopt such of revised statutes as are not repealed or amended; numbering of articles.
3. Statutes passed since adoption of revised statutes, including Sixteenth legislature, to be incorporated in such statutes; general statutes to be collated and arranged with notes, headlines, etc.; Civil Statutes, Criminal Code, Code

Sec.

- Criminal Procedure, to be separately indexed.
4. Commissioners to embody civil statutes and criminal statutes in two separate bills; to be reported to the Governor; five hundred printed copies to be delivered to the Secretary of State.
5. Commissioners to supervise the printing; salaries, and how paid.
6. Emergency clause.

CHAP. 49.—[S. B. No. 3.] An Act to provide for Revising, Digesting and Publishing the Laws, Civil and Criminal, of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas: That the Governor shall, by and with the advice and consent of the senate if in session, appoint three commissioners who shall be learned in the law, whose duty it shall be to revise and digest the laws civil and criminal of the State of Texas, in accordance with the requirements of this act.

Sec. 2. Said Commissioners shall adopt such of the revised statutes, civil and criminal, as have not been repealed or amended, together with their present arrangement of titles, chapters, articles, marginal references and chapter headlines, and shall not change the words or punctuation thereof except in cases of evident clerical or typographical errors; provided the present numbering of the articles is not required to be preserved.

Sec. 3. All statutes passed since the adoption of the revised statutes, including those passed at the regular and special sessions of the sixteenth Legislature and those that may have been passed at the time said Commissioners shall submit their report herein provided for, which statutes by their terms are amendatory of the Revised Statutes or are germane thereto, shall be incorporated in their proper places in such statutes; and all other of said statutes passed as aforesaid which are general and permanent in their nature shall be collated and arranged into their appropriate titles, chapters and articles, and with marginal references and chapter headlines similar to those used in the present Revised Statutes; provided, that in revising the statutes referred to in this section, said Commissioners shall, without making radical changes therein, so revise them as to render them concise, plain and intelligible; provided further, that the Civil Statutes, the Penal Code and the Code of Criminal Procedure shall each be separately indexed and the index placed at the end of each of such subdivisions.

Sec. 4. Said Commissioners shall embody the result of their labors in two bills, one containing the entire body of the Civil Statutes and the other the entire body of the statutes relating to criminal law, both properly indexed, which bills said Commissioners shall report to the Governor on or before the meeting of the twenty third Legislature; and it shall be the duty of the Governor upon receipt of said bills and report, to cause five hundred copies of the same to be printed at the expense of the State, in the same manner and under the same rules and regulations as are prescribed by law for other public printing, which said copies shall be delivered to the Secretary of State for the use of said Legislature.

Sec. 5. Said Commissioners shall supervise the printing of said bills and report; and they shall receive as compensation the same salary as a District Judge for the time they are necessarily engaged, not to exceed

one year, in the performance of their work, and the certificate of the Governor shall authorize the Comptroller, at stated times to draw his warrant on the Treasurer for its payment.

Sec. 6. The difficulty of knowing what the law is, and where to find it in the great mass of accumulated session acts, and the constitutional authorization of a decennial revision, create an emergency and an imperative public necessity, requiring the suspension of the constitutional rules requiring bills to be read on three several days, and said rules are hereby suspended and that this act take effect from and after its passage and it is so enacted.

[Note.—The foregoing act originated in the senate and passed the same by a vote of 22 yeas and 1 nay; and passed the house by a vote of 79 yeas and 1 nay.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the twenty third day of March, A. D. 1891, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the constitution, and thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

PRIZE FIGHTING.

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| <p>Sec.
1. Pugilistic encounters prohibited; penalty.
2. Term pugilistic encounter defined.
3. Second, stakeholder, etc., deemed a principal.</p> | <p>Sec.
4. Repealing clause; conviction or acquittal under this act no bar to prosecution under other provisions of Penal Code.
Emergency clause.</p> |
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CHAP. 50.—[S. H. B. No. 24-167.] An act to prohibit prize fighting and pugilism.

Section 1. Be it enacted by the Legislature of the State of Texas: That if any person who shall voluntarily engage in a pugilistic encounter between man and man, or fight between man and bull or between man and other animal, for money or other thing of value, or upon the result of which any money or anything of value is bet or wagered, or to see which any admission fee is charged either directly or indirectly, shall be deemed guilty of a felony and upon conviction shall be punished by a fine of not less than \$500 nor more than \$1000, and by punishment in the county jail not less than sixty days nor more than one year.

Sec. 2. By the term pugilistic encounter, as used in this act, is meant any voluntary fight or personal encounter by blows by means of the fists, whether with or without gloves, between two or more men for money, prize of any character or other thing of value, or upon the result of which any money or other thing of value is bet or wagered.

Sec. 3. Any person who shall act as second, stakeholder, counsellor or adviser, or who shall render aid of any such character for or to the principals or either of them in any such encounter, shall be deemed a principal in the offense, and shall be punished as prescribed in section one of this act.

Sec. 4. That all laws and parts of laws in conflict with this act be and the same are hereby repealed, provided that no conviction or acquittal under the provisions of this act shall be so construed as to prohibit a prosecution or conviction of such person, for the violation of any other provision of the penal code.

Whereas, there is now no law prohibiting prize fighting in this state,

and this offense is becoming of common practice, therefore, there exists a public and imperative necessity for the suspension of the constitutional rule requiring bills to be read on three several days in each house, be and the same is hereby suspended.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the twenty-third day of March, A. D. 1891, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the constitution, and thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

“RAILROAD COMMISSION OF TEXAS.”

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| <p>Sec.</p> <ol style="list-style-type: none"> 1. Commission created; provides for three commissioners, how appointed, term of office, their qualifications, oath, salary. 2. Organization; appointment of secretary, clerks and experts, and to fix their salaries; name "Railroad Commission of Texas;" seal; office in capitol, etc.; traveling expenses, how paid. (a.) May hold sessions at any place in State. 3. Vests power in commission to adopt, regulate and enforce rates; duties of railway companies as to depots. (a.) Power to classify freight; (b.) to fix rates. (d.) May make different rates for express companies. (e.) and (f.) Joint rates for connecting lines. (g.) When partial or special classification may be made. (h.) Power to change classification and rates. (i.) May hear and determine complaints. (k.) May establish passenger rates. 4. Notice to be given before establishment of rates; mode of procedure and powers of commission in such cases. 5. Rates conclusive until set aside by direct action. (See Secs. 6 and 7.) 6. When and where suit may be brought to hear complaint against commission; such action shall have precedence; right of appeal. 7. Burden of proof rests upon plaintiff. 8. Schedules and classification of rates to be furnished each railroad; railroads shall post same for public inspection. 9. Complaint against railroads, how made and investigated; evidence therein when reduced to writing admissible upon trial of causes, when. 10. The right to inspect books and papers of any railroad company, etc.; penalty for refusal to permit such inspection. 11. Commission to ascertain cost of construction, equipment, etc., of railroads; bonds, indebtedness, etc.; amounts paid for | <p>Sec.</p> <ol style="list-style-type: none"> salaries and wages; may employ experts; shall make reports to Attorney-General and Comptroller. 12. Commission may propound questions to railroads to be answered under oath. (a.) Penalty for refusal to answer; may prescribe a system of bookkeeping. (b.) Shall make annual report to the Governor. (c.) Shall investigate all through freight rates; Interstate Commerce Commission to be notified, when. 13. Power to summon and compel the attendance of witnesses; fees of witnesses; compensation of sheriffs. 14. Extortion defined, and penalty therefor. 15. Discrimination defined and prohibited. (c.) Commission may allow special rates for long hauls, when; may make group rates. (h.) Free transportation, when allowed. 16. Punishment for false billing, classification, weight, etc. 17. Liability of railroads to persons and corporations injured by violations of this act; additional penalty for extortion or discrimination; venue. 18. Penalty where not otherwise provided. 19. Penalties, how recovered; venue, attorney's fees, rules of evidence, fines payable into State treasury. 20. Authorized copies of classifications, rates, etc., admissible in evidence. 21. Duty of commission to enforce provisions of this act; all suits between the State and railroads to have precedence. (a.) Contracts between connecting railroads to be approved by the commission. 22. "Road," "railroad," "railroad companies," and "railroad corporations" defined. (a.) Applies to transportation between points in this State only, and not to street railways, etc. (b.) At least one passenger train a day required, Sundays excepted. 23. Penalties cumulative. 24. Emergency clause. |
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CHAP. 51.—[H. S. S. H. B's. Nos. 1, 3, and 58.] An Act to establish a Railroad Commission for the State of Texas, whereby discrimination and extortion in railroad charges may be prevented, and reasonable freight and passenger tariffs may be established; to prescribe and authorize the making of rules and regulations to govern the Commission and the railroads, and afford railroad companies and other parties adequate remedies; to prescribe penalties for the violation of this act and to provide means and rules for its enforcement.

Section 1. Be it enacted by the Legislature of the State of Texas: That a Railroad Commission is hereby created, to be composed of three persons to be appointed by the Governor, as follows: If the Legislature

be then in session the Governor shall, upon the taking effect of this act, or as soon thereafter as practicable, by and with the advice of the Senate, if the Legislature then be in session appoint said Commissioners; but if the Legislature be not in session, the Governor shall make such appointments, and each Commissioner so appointed shall hold his office until the second Monday after the inauguration of the next succeeding Governor and until his successor is appointed and qualified. Each succeeding Governor shall on the second Monday after his inauguration, or as soon thereafter as practicable, appoint said Commissioners, who shall each hold his office until the second Monday after the inauguration of the next succeeding Governor and until his successor is appointed and qualified.

(a.) The persons so appointed shall be resident citizens of this State, and qualified voters under the Constitution and laws, and not less than twenty-five years of age. No person shall be appointed as such Commissioner who is directly or indirectly interested in any railroad in this State or out of it, or in any stock, bond, mortgage, security, or in the earnings of any such road; and if such Commissioner shall voluntarily become so interested his office shall become vacant; and if any Railroad Commissioner shall become so interested otherwise than voluntarily he shall within a reasonable time divest himself of such interest; failing to do this, his office shall become vacant.

(b.) No Commissioner hereunder shall hold any other office under the government of the United States or of this State or of any other State government; and shall not while such Commissioner engage in any occupation or business inconsistent with his duties as such Commissioner.

(c.) The Governor shall fill all vacancies in the office of Commissioner by appointment, and the person so appointed shall fill out the unexpired term of his predecessor.

(d.) Before entering upon the duties of his office, each of said Commissioners shall take and subscribe to the oath of office prescribed in the Constitution, and shall, in addition thereto, swear that he is not directly or indirectly interested in any railroad, nor in the bonds, stock, mortgages, securities, contracts, or earnings of any railroad, and that he will, to the best of his ability, faithfully and justly execute and enforce the provisions of this act and all laws of this State concerning railroads, which oath shall be filed with the Secretary of State.

(e.) Each of said Commissioners shall receive an annual salary of \$4000, payable in the same manner that salaries of other State officers are paid.

Sec. 2. The Commissioners appointed shall meet at Austin and organize and elect one of their number chairman of said Commission. A majority of said Commissioners shall constitute a quorum to transact business. Said Commission may appoint a secretary at a salary of not more than \$2000 per annum and may appoint not more than two clerks at a salary of not more than \$1500 per annum each, and such other persons as experts as may be necessary to perform any duty that may be required of them by this act. The secretary shall keep full and correct minutes of all the transactions and proceedings of said Commission, and perform such duties as may be required by the Commission. The Commission shall have power to make all needful rules for their government and for their proceedings. They shall be known collectively as "Railroad Commission of Texas," and shall have a seal, a star of five points, with the words, "Railroad Commission of Texas" engraved thereon. They shall be furnished with an office in the Capitol at Austin, and with necessary

furniture, stationery, supplies, and all necessary expenses, to be paid for on the order of the Governor.

The Commissioners, secretary and clerks shall be entitled to receive from the State their actual necessary traveling expenses, which shall include the cost only of transportation while traveling on the business of the Commission, to be paid out on the order of the Governor upon an itemized statement thereof, sworn to by the party who incurred the expense and approved by the Commission.

(a.) Said Commissioners may hold sessions at any place in this State when deemed necessary to facilitate the discharge of their duties.

Sec. 3. The power and authority is hereby vested in the Railroad Commission of Texas, and it is hereby made its duty, to adopt all necessary rates, charges, and regulations to govern and regulate railroad freight and passenger tariffs, the power to correct abuses and prevent unjust discrimination and extortion in the rates of freight and passenger tariffs on the different railroads in this State, and to enforce the same by having the penalties inflicted as by this act prescribed through proper courts having jurisdiction.

(a.) The said Commission shall have power, and it shall be its duty, to fairly and justly classify and subdivide all freight and property of whatsoever character that may be transported over the railroads of this State into such general and special classes or subdivisions as may be found necessary and expedient.

(b.) The Commission shall have power, and it shall be its duty, to fix to each class or subdivision of freight a reasonable rate for each railroad subject to this act for the transportation of each of said classes and subdivisions.

(c.) The classifications herein provided for shall apply to and be the same for all railroads subject to the provisions of this act.

(d.) That said Commission may fix different rates for different railroads and for different lines under the same management, or for different parts of the same lines if found necessary to do justice, and may make rates for express companies different from the rates fixed for railroads.

(e.) The said Commission shall have power, and it shall be its duty, to fix and establish for all or any connecting lines of railroad in this State reasonable joint rates of freight charges for the various classes of freight and cars that may pass over two or more lines of such railroads.

(f.) If any two or more connecting railroads shall fail to agree upon a fair and just division of the charges arising from the transportation of freights, passengers or cars over their lines, the Commission shall fix the pro rata part of such charges to be received by each of said connecting lines.

(g.) Until the Commission shall make the classifications and schedules of rates as herein provided for, and afterwards if they deem it advisable, they may make partial or special classifications for all or any of the railroads subject hereto, and fix the rates to be charged by such roads therefor; and such classifications and rates shall be put into effect in the manner provided for general classifications and schedules of rates.

(h.) The Commission shall have power, and it shall be its duty from time to time, to alter, change, amend, or abolish any classification or rate established by it when deemed necessary; and such amended, altered, or new classifications or rates shall be put into effect in the same manner as the originals.

(i.) The Commission may adopt and enforce such rules, regulations,

and modes of procedure as it may deem proper to hear and determine complaints that may be made against the classifications or the rates, the rules, regulations, and determinations of the Commission.

(j.) The Commission shall make reasonable and just rates of charges for each railroad subject hereto for the use or transportation of loaded or empty cars on its road; and may establish for each railroad or for all railroads alike reasonable rates for the storing and handling of freight and for the use of cars not unloaded after forty-eight hours' notice to the consignee, not to include Sundays.

(k.) The Commission shall make and establish reasonable rates for the transportation of passengers over each or all of the railroads subject hereto, which rates shall not exceed the rates fixed by law. The commission shall have power to prescribe reasonable rates, tolls, or charges for all other services performed by any railroad subject hereto.

(l.) It shall be the duty of each and every railway subject to this act to provide and maintain adequate, comfortable, and clean depots and depot buildings at its several stations for the accommodation of passengers, and said depot buildings shall be kept well lighted and warmed for the comfort and accommodation of the traveling public; and all such roads shall keep and maintain adequate and suitable freight depots and buildings for the receiving, handling, storing, and delivering of all freights handled by such roads: Provided, that this shall not be construed as repealing any existing laws on the subject.

Sec. 4. Before any rates shall be established under this act, the Commission shall give the railroad company to be affected thereby ten days notice of the time and place when and where the rates shall be fixed; and said railroad company shall be entitled to be heard at such time and place, to the end that justice may be done; and it shall have process to enforce the attendance of its witnesses. All process herein provided for shall be served as in civil cases.

(a.) The Commission shall have power to adopt rules to govern its proceedings, and to regulate the mode and manner of all investigations and hearings of railroad companies and other parties before it, in the establishment of rates, orders, charges, and other acts required of it under this law: Provided, no person desiring to be present at any such investigation by said Commission shall be denied admission.

(b) The chairman and each of the Commissioners, for the purposes mentioned in this act, shall have power to administer all oaths, certify to all official acts, and to compel the attendance of witnesses and the production of papers, way bills, books, accounts, documents, and testimony, and to punish for contempt as fully as is provided by law for the district or county court.

Sec. 5. In all actions between private parties and railway companies brought under this law, the rates, charges, order, rules, regulations, and classifications prescribed by said Commission before the institution of such action shall be held conclusive and deemed and accepted to be reasonable, fair, and just, and in such respects shall not be controverted therein until finally found otherwise in a direct action brought for that purpose in the manner prescribed by section 6 and 7 hereof.

Sec. 6. If any railroad company or other party at interest be dissatisfied with the decision of any rate, classification, rule, charge, order, act, or regulation adopted by the Commission, such dissatisfied company or party may file a petition setting forth the particular cause or causes of objection to such decision, act, rate, rule, charge, classification, or order,

or to either or all of them, in a court of competent jurisdiction in Travis County, Texas, against said Commission as defendant. Said action shall have precedence over all other causes on the docket of a different nature, and shall be tried and determined as other civil causes in said court. Either party to said action may appeal to the appellate court having jurisdiction of said cause, and said appeal shall be at once returnable to said appellate court, at either of its terms, and said action so appealed shall have precedence in said appellate court of all causes of a different character therein pending: Provided, that if the court be in session at the time such right of action accrues, the suit may be filed during such term and stand ready for trial after ten days notice.

Sec. 7. In all trials under the foregoing section the burden of proof shall rest upon the plaintiff, who must show by clear and satisfactory evidence that the rates, regulations, orders, classifications, acts, or charges complained of are unreasonable and unjust to it or them.

Sec. 8. The said Commission shall, so soon as the classification and schedules of rates herein provided for are prepared by them, furnish each railroad subject to the provisions of this act with a complete schedule in suitable form, showing the classification of freight made by them and the rates fixed by said Commission to be charged by such road for the transportation of each class of freight, and shall cause a certified copy of such classification and schedule of rates to be delivered to each of said railroads at its principal office in this State, if it has such office in this State, and if not, then to any agent of said company in this State, which said schedule, rules, and regulations shall take effect at the date which may be fixed by said Commission, not less than twenty days. Each of said railroad companies shall cause said schedules to be printed in type of a size not less than pica, and shall have the same posted up in a conspicuous place at each of its depots, so as to be inspected by the public. Said Commission may at any time abolish, alter, or in any manner amend the said schedules, or abolish or amend any such regulations, and in that event certified copies of the schedules, rules, or regulations, showing the changes therein, shall be delivered to each road as herein specified. In all cases where the rates shall not have been fixed by the Commission, no changes shall be made except after ten days notice to and consent of the Commission.

Sec. 9. Any person, firm, corporation, or association, or any mercantile, agricultural, or manufacturing association, or any body politic, or municipal organization, complaining of anything done or omitted to be done by any railroad, subject hereto, in violation of any law of this State or the provisions of this act for which penalty is provided, may apply to said Commission in such manner and under such rules as the Commission may prescribe; whereupon, if there shall appear to the Commission to be any reasonable grounds for investigating such complaint, it shall give at least five days notice to such railroad of such charge and complaint, and call upon said road to answer the same at a time and place to be specified by the Commission. The Commission shall investigate and determine such complaint under such rules and modes of procedure as it may adopt. If the Commission find that there has been a violation, it shall determine if the same was willful; if it finds that such violation was not willful it may call upon said road to satisfy the damage done to the complainant thereby, stating the amount of such damage, and to pay the cost of such investigation; and if the said railroad shall do so within the time specified by the Commission there shall be no prosecution by

the State; but if said railroad shall not pay said damage and cost within the time specified by said Commission, or if the Commission find such violation to be wilful, it shall institute proceedings to recover the penalty for such violation and the cost of such investigation. All such complaints shall be made in the name of the State of Texas upon the relation of such complainant. All evidence taken before said Commission in the investigation of any such complaint, when reduced to writing and signed and sworn to by the witness, may be used by either party—the State, complainant, or the railroad company—in any proceeding against such railroad involving the same subject matter: Provided further, that the Commissioners may require the testimony so taken before them to be reduced to writing when they may deem it necessary, or when requested to do so by either party to such proceedings, and a certified copy, under the hand and seal of said Commission, shall be admissible in evidence upon the trial of any cause or proceeding growing out of the same transaction against such railroad, involving the same subject matter and between the same parties. The provisions of this section shall not abridge nor effect the right of any person to sue for any penalty that may be due him under the provisions of this act or any other law of this State.

Sec. 10. The Commissioners, or either of them, or such persons as they employ therefor, shall have the right, at such times as they may deem necessary, to inspect the books and papers of any railroad company, and to examine under oath any officer, agent, or employe of such railroad in relation to the business and affairs of the same. If any railroad shall refuse to permit the Commissioners, or either of them, or any person authorized thereto, to examine its books and papers, such railroad company shall, for each offense, pay to the State of Texas not less than \$125 nor more than \$500 for each day it shall so fail or refuse: Provided, that any person other than one of said Commissioners who shall make any such demands shall produce his authority, under the hand and seal of said Commission, to make such inspection.

(a) Any officer, agent, or employe of any railroad company who shall, upon proper demand, fail or refuse to exhibit to the Commissioners, or either of them, or any person authorized to investigate the same, any book or paper of such railroad company which is in the possession or under the control of such officer, agent, or employe, shall be deemed guilty of a misdemeanor, and upon conviction in any court having jurisdiction thereof shall be fined for each offense a sum not less than \$125 and not [to] exceed \$500.

Sec. 11. The Commission shall ascertain as early as practicable the amount of money expended in construction and equipment per mile of every railway in Texas; the amount of money expended to procure the right of way, and the amount of money it would require to reconstruct the road bed, track, depots and transportation, and to replace all the physical properties belonging to the railroad. It shall also ascertain the outstanding bonds, debentures and indebtedness and the amount respectively thereof, when issued and rate of interest, when due, for what purposes issued, how used, to whom issued, to whom sold, and the price in cash, property or labor, if any received therefor, what became of the proceeds, by whom the indebtedness is held, the amount purporting to be due thereon, the floating indebtedness of the company, to whom due and his address, the credits due on it, the property on hand belonging to the railroad company, and the judicial or other sales of said road, its

property or franchises, and the amounts purporting to have been paid, and in what manner paid therefor. The Commission shall also ascertain the amounts paid for salaries to the officers of the railroad, and the wages paid its employees. For the purpose in this section named, the Commission may employ sworn experts to inspect and assist them when needed, and from time to time, as the information required by this section is obtained, it shall communicate the same to the Attorney-General by report, and file a duplicate thereof with the Comptroller for public use, and said information shall be printed from time to time in the annual report of the Commission.

Sec. 12. The said Commission shall cause to be prepared suitable blanks with questions calculated to elicit all information concerning railroads, and as often as it may be necessary furnish said blanks to each railroad company. Any railroad company receiving from the Commission any such blanks shall cause said blanks to be properly filled out so as to answer fully and correctly each question therein propounded, and in case they are unable to answer any question, they shall give a satisfactory reason for their failure; and the said answers, duly sworn to by the proper officer of said company, shall be returned to said Commission at its office in the city of Austin within thirty days from the receipt thereof.

(a.) If any officer or employee of a railroad company shall fail or refuse to fill out and return any blanks as above required, or fail or refuse to answer any questions therein propounded, or give a false answer to any such question, where the fact enquired of is within his knowledge, or shall evade the answer to any such questions, such person shall be guilty of a misdemeanor, and shall on conviction thereof be fined for each day he shall fail to perform such duty after the expiration of the time aforesaid a penalty of \$500, and the Commission shall cause a prosecution therefor in the proper court; and a penalty of a like amount shall be recovered from the company when it appears that such person acted in obedience to its direction, permission, or request in his failure, evasion or refusal. Said Commission shall have the power to prescribe a system of bookkeeping to be observed by all the railroads subject hereto, under the penalties prescribed in this section.

(b.) The said Commission shall make and submit to the Governor annual reports containing a full and complete account of the transactions of their office, together with the information gathered by such Commission as herein required, and such other facts, suggestions, and recommendations as may be by them deemed necessary, which report shall be published as the reports of the heads of departments.

(c.) The said Commission shall have power, and it is hereby made its duty, to investigate all through freight rates on railroads in Texas; and when the same are, in the opinion of the Commission, excessive or levied or laid in violation of the interstate commerce law, or the rules and regulations of the Interstate Commerce Commission, the officials of the railroads are to be notified of the facts and requested to reduce them or make the proper corrections, as the case may be. When the rates are not changed, or the proper corrections are not made according to the request of the Commission, the latter is instructed to notify the Interstate Commerce Commission and to apply to it for relief.

Sec. 13. The said Commission, in making any examination or investigations provided in this act, shall have power to issue subpoenas for the attendance of witnesses by such rules as they may prescribe. Each wit-

ness who shall appear before the Commission by order of the Commission, at a place outside of the county of his residence, shall receive for his attendance one dollar per day and three cents per mile, traveled by the nearest practicable route, in going to and returning from the place of meeting of said Commission, which shall be ordered paid by the Comptroller of Public Accounts upon the presentation of proper vouchers, sworn to by such witness, and approved by the chairman of the Commission: Provided, that no witness shall be entitled to any witness fees or mileage who is directly or indirectly interested in any railroad in this State or out of it, or who is in any wise interested in any stock, bond, mortgage, security or earnings of any such road, or who shall be the agent or employe of such road, or an officer thereof, when summoned at the instance of such railroad; and no witness furnished with free transportation shall receive pay for the distance he may have traveled on such free transportation. In case any witness shall fail or refuse to obey such subpoena, said Commission may issue an attachment for said witness, directed to any sheriff or any constable of the State of Texas, and compel him to attend before the Commission and give his testimony upon such matters as shall be lawfully required by them. If a witness, after being duly summoned, shall fail or refuse to attend or to answer any question propounded to him, and which he would be required to answer if in court, the Commission shall have the power to fine and imprison such witness for contempt, in the same manner that a judge of the district court might do under similar circumstances. The claim that any such testimony may tend to criminate the person giving it shall not excuse such witness from testifying, but such evidence or testimony shall not be used against such person on the trial of any criminal proceeding: Provided, the Commission shall in all cases have the right in its discretion to issue proper process and take depositions instead of compelling personal attendance of witnesses. The sheriff or constable executing any process issued under the provisions of this section or under any other provisions of this bill shall receive such compensation as may be allowed by the Commission, not to exceed fees as now prescribed by law for similar services.

Sec. 14. If any railroad company subject to this act, or its agent or officer, shall hereafter charge, collect, demand or receive from any person, company, firm or corporation a greater rate, charge, or compensation than that fixed and established by the Railroad Commission for the transportation of freight, passengers, or cars, or for the use of any car on the line of its railroad, or any line operated by it, or for receiving, forwarding, handling, or storing any such freight or cars, or for any other service performed or to be performed by it, such railroad company and its said agent and officer shall be deemed guilty of extortion, and shall forfeit and pay to the State of Texas a sum not less than \$100 nor more than \$5000.

Sec. 15. If any railroad subject hereto, directly or indirectly, or by any special rate, rebate, drawback, or other device, shall charge, demand, collect, or receive from any person, firm, or corporation a greater or less compensation for any service rendered or to be rendered by it than it charges, demands, collects, or receives from any other person, firm or corporation for doing a like and contemporaneous service, such railroad shall be deemed guilty of unjust discrimination, which is hereby prohibited.

(a.) It shall also be an unjust discrimination for any such railroad to make or give any undue or unreasonable preference or advantage to any

particular person, company, firm, corporation, or locality, or to subject any particular description of traffic to any undue or unreasonable prejudice, delay, or disadvantage in any respect whatsoever.

(b.) Every railroad company which shall fail or refuse, under such regulations as may be prescribed by the Commission, to receive and transport without delay or discrimination the passengers, tonnage, and cars, loaded or empty, of any connecting line of railroad, and every railroad which shall, under such regulations as may be prescribed by the Commission, fail and refuse to transport and deliver without delay or discrimination any passengers, tonnage, or cars, loaded or empty, destined to any point on or over the line of any connecting line of railroad, shall be deemed guilty of unjust discrimination: Provided, perishable freights of all kinds and live stock shall have precedent of shipment.

(c.) It shall also be an unjust discrimination for any railroad subject hereto to charge or receive any greater compensation in the aggregate for the transportation of like kind of property or passengers for a shorter than for a longer distance over the same line: Provided, that upon application to the Commission any railroad may in special cases, to prevent manifest injury, be authorized by the Commission to charge less for longer than for shorter distances for transporting persons and property, and the Commission shall from time to time prescribe the extent to which such designated railroad may be relieved from the operations of this provision: Provided, that no manifest injustice shall be imposed upon any citizen at intermediate points. Provided, further, that nothing herein shall be so construed as to prevent the Commission from making what are known as "group rates" on any line or lines of railroad in this State.

(d.) Any railroad company violating any provision of this section shall be deemed guilty of unjust discrimination, and shall for each offense pay to the State of Texas a penalty of not less than five hundred dollars nor more than five thousand dollars.

(h.) Nothing herein shall prevent the carriage, storage, or handling of freight free or at reduced rates for the State, or for any city, county, or town government, or for charitable purposes, or to and from fairs and expositions for exhibition thereof, or the free carriage of destitute and indigent persons, or the issuance of mileage or excursion passenger tickets; nor to prevent railroads from giving free transportation to ministers of religion, or free transportation to the inmates of hospitals, eleemosynary and charitable institutions, and to the employes of the agricultural and geological departments of this State, or to peace officers of this State; and nothing herein shall be construed to prevent railroads from giving free transportation to any railroad officers, agents, employes, attorneys, stockholders, or directors, or to the Railroad Commissioners, their secretary, clerks, and employes herein provided for, or to any person not prohibited by law: Provided, they, or either of them, shall not receive from the State mileage when such pass is used.

Sec. 16. Any officer or agent of any railroad subject to this act who, by means of false billing, false classification, false weight, or by any other device, shall suffer or permit any person or persons to obtain transportation for property at less than the regular rates then in force on such railroad, or who by means of false billing, false classification, false weighing, or by any device whatever shall charge any person, firm or corporation more for the transportation of property than the regular rates, shall be guilty of a misdemeanor, and on conviction thereof fined in a sum of not less than \$100 nor more than \$1000.

Sec. 17. In case any railroad subject to this act shall do, cause to be done, or permit to be done any matter, act, or thing in this act prohibited or declared to be unlawful, or shall omit to do any act, matter, or thing herein required to be done by it, such railroad shall be liable to the person or persons, firm, or corporation injured thereby for the damages sustained in consequence of such violation; and in case said railroad company shall be guilty of extortion or discrimination as by this act defined, then, in addition to such damages, such railroad shall pay to the person, firm, or corporation injured thereby a penalty of not less than \$125 nor more than \$500, to be recovered in any court of competent jurisdiction in any county into or through which such railroad may run: Provided, that such road may plead and prove as a defense to the action for said penalty that such overcharge was unintentionally and innocently made through a mistake of fact: Provided, that any such recovery as herein provided shall in no manner affect a recovery by the State of a penalty provided for such violation.

Sec. 18. If any railroad, as aforesaid, shall willfully violate any other provisions of this act, or shall do any other act herein prohibited, or shall fail or refuse to perform any other duty enjoined upon it for which a penalty has not herein been provided, for every such act of violation it shall pay the State of Texas a penalty of not more than five thousand dollars.

Sec. 19. All of the penalties herein provided, except as provided in Section 17, shall be recovered and suits thereon shall be brought in the name of the State of Texas in the proper court having jurisdiction thereof in Travis County, or in any county to or through which such railroad may run, by the Attorney-General or under his direction; and the attorney bringing such suit shall receive a fee of fifty dollars for each penalty recovered and collected by him, and ten per cent of the amount collected, to be paid by the State. In all suits arising under this act the rules of evidence shall be the same as in ordinary civil actions, except as otherwise herein provided. All fines and penalties recovered by the State under this act shall be paid into the treasury of the State.

Sec. 20. Upon application of any person the Commission shall furnish certified copies of any classification, rates, rules, regulations, or orders, and such certified copies, or printed copies published by authority of the Commission, shall be admissible in evidence in any suit and sufficient to establish the fact that any charge, rate, rule, order, or classification therein contained and which may be in issue in the trial is the official act of the Commission. A substantial compliance with the requirements of this act shall be sufficient to give effect to all the classifications, rates, charges, rules, regulations, requirements, and orders made and established by the Commission, and none of them shall be declared inoperative for any omission of a technical matter in the performance of such act.

Sec. 21. It is hereby made the duty of such Railroad Commission to see that the provisions of this act and all laws of this State concerning railroads are enforced and obeyed, and that violations thereof are promptly prosecuted, and penalties due the State therefor recovered and collected. And said Commission shall report all such violations, with the facts in their possession, to the Attorney-General or other officer charged with the enforcement of the laws, and request him to institute the proper proceedings; and all suits between the State and any railroad shall have precedence in all courts over all other suits pending therein.

(a) It shall be the duty of the Commission to investigate all com-

plaints against railroad companies subject hereto, and to enforce all laws of this State in reference to railroads. But any two connecting railroads may enter into a contract whereby any part or all of the passengers, freight, or cars, empty or loaded, hauled or transported by one and destined to points on or beyond the line of the other shall be delivered to, received and transported by the other; which contract, however, shall be submitted to the Railroad Commission for examination and approval, and when so approved shall be binding; but if the said contract be not approved by the Commission the same shall be void: Provided, that any connecting line delivering freight to the owner or consignee of such freight may be sued by the owner thereof in the county where the freight is delivered for any damage that may be done to such freight in its transportation.

Sec. 22. The terms "road," "railroad," "railroad companies," and "railroad corporations," as used herein, shall be taken to mean and embrace all corporations, companies, individuals, and associations of individuals, their lessees or receivers (appointed by any court whatsoever), that may now or hereafter own, operate, manage, or control any railroad or part of a railroad in this State, and all such corporations, companies, and associations of individuals, their lessees or receivers, as shall do the business of common carriers on any railroad in this State.

(a.) The provisions of this act shall be construed to apply to and affect only the transportation of passengers, freight, and cars between points within this State; and this act shall not apply to street railways nor suburban or belt lines of railways in or near cities and towns.

(b.) It shall be the duty of the Commission to see that upon every railroad and branch of same carrying passengers for hire in this State shall run at least one train a day (Sundays excepted), upon which passengers shall be hauled, and the Commission shall have no power to relax this provision.

Sec. 23. This act shall not have the effect to release or waive any right of action by the State or any person for any right, penalty, or forfeiture which may have arisen or may hereafter arise under any law of this State; and all penalties accruing under this act shall be cumulative of each other, and a suit for or recovery of one shall not be a bar to the recovery of any other penalty; and all laws and parts of laws in conflict with this act are hereby repealed.

Sec. 24. The fact that there is no adequate and sufficient law for the regulation of railroads in the transportation of freight and passenger traffic, and the near approach of the close of the present session, creates an imperative public necessity and an emergency, necessitating the suspension of the constitutional rule requiring bills to be read on three several days, and it is so suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act originated in the House, and passed the same by two-thirds vote yeas 92, nays 5; and passed the Senate by two-thirds vote yeas 26, nays 0.]

Approved April 3, 1891.

COLLIN COUNTY ROADS.

Sec.

1. County commissioners ex-officio road commissioners; their duties; bond.
2. Commissioners court to adopt system for working roads; to purchase teams, tools, etc.; contract work; bond of contractor; separate account to be kept by treasurer.
3. Labor of county convicts, their wages; officers' and witnesses' fees; commutation of time of convicts; care of convicts.
4. Road overseer to be furnished teams, etc.

Sec.

5. County commissioner to direct manner of work in his district.
6. Overseer to call out hands; duty of hands; compensation of overseer.
7. Exemption from road duty; treasurer to keep separate account for each road district; county commissioners to be furnished list of persons exempt.
8. Manner of condemning lands.
9. Salary of commissioners and approval of their accounts.
10. This act cumulative of general laws.
11. Emergency clause.

CHAP. 52.—[S. B. No. 371.] An Act to create a more efficient road system for the county of Collin, in the State of Texas, and making county commissioners ex-officio road commissioners and prescribing their duties as such, and providing for their compensation as Road Commissioners, and defining the powers and duties of the Commissioners Court of said county.

Section 1. Be it enacted by the Legislature of the State of Texas: That each member of the commissioners court of Collin county shall be ex-officio road commissioner of their respective districts and under the direction of the commissioners court, shall have charge of all the teams, tools and machinery belonging to the county, and placed in their hands by said court: and it shall be their duty, under such rules and regulations as the commissioners court may prescribe, to superintend the laying out of new roads, the making or changing of roads, and the building of bridges. Each of said Commissioners shall, before entering upon the duties of their office, execute a bond of one thousand dollars with two or more good and sufficient sureties, payable to the County Judge of said county for the use and benefit of the road and bridge fund, conditioned that they will perform all the duties required of them by law or by the commissioners court, and that they will account for all money or property belonging to the county that may come into their possession.

Sec. 2. The commissioners court of said county shall have full power and authority, and it shall be their duty to adopt such system for working, laying out, draining and repairing the public roads in said county as they may deem best, and from time to time said court may change its plans or system of working. Said commissioners court shall have power to purchase such teams, tools and machinery as may be necessary for the working of its roads. Said court shall have the power to construct, grade, gravel, or otherwise improve any road or bridge by contract; in such case, said court or the County Judge may advertise in such manner as said court may determine for bids to do such work, and the contract shall be awarded to the lowest responsible bidder, who shall enter into bond, payable to the County Judge of said county, for the use of the road and bridge fund, with good and sufficient sureties to be approved by said court, and in such sum as said court may determine, for the faithful compliance with the terms of said contract; but said court shall have the right to reject any and all bids. At the time of making any such contract, the court shall direct the county Treasurer to pass the amount to a particular fund for that purpose, and the Treasurer shall keep a separate account of such fund and the same shall not be used for any other purpose, and can only be paid out on the order of said court, and the said court shall have authority to employ any hands or teams to work on the roads under such regulations and for such price as they may deem best.

Sec. 3. The commissioners court of said county shall require all county convicts not otherwise employed to labor upon the public roads

under such regulations as it may prescribe, and each convict so worked shall receive a credit of fifty cents on his fine first, and then on the cost, for each day he may labor. The commissioners court may at a regular term allow to the officers and witnesses such amount of their cost for the arrest and conviction of said convicts as it may deem best; provided that it shall not allow to any officer an amount greater than the following: County Judge, \$3.00; County Attorney, \$5.00, including commissions; County Clerks and Justices of the Peace, \$1.70; Sheriffs or Constables, \$2.00; which amount shall be paid to the officers out of the road and bridge fund, on the warrant of the County Judge, when said fine and costs shall have been worked out as provided in this section; provided, that this shall not be so construed as to relieve any convict from the payment of all costs for which he would be liable under the general laws of this state. The commissioners court may grant a reasonable commutation of time for which a convict is committed as a reward for faithful services and good behavior. Provided, that such commutation shall in no case exceed one-tenth of the whole time. The commissioners court may provide the necessary houses, prisons, clothing, bedding, food, medicine, medical attention and guards for the safe and humane keeping of the convicts.

Sec. 4. Each county commissioner shall have control of all road overseers in his district and shall deliver to each of them all teams, tools and machinery necessary in working the roads in the district of said overseer, so far as he has been supplied therewith by the commissioners court, taking the receipt of said road overseer therefor, specifying each item and giving its value, which receipt shall be a full answer of the liability of the Commissioner and shall fix the liability of the overseer, and any commissioner or overseer who shall have been entrusted with any teams, tools or machinery, belonging to said county, shall be liable for any damages that may occur to the same while in his possession. It shall be the duty of the road overseer when he has finished the work on his road to return to said Commissioner all teams, tools and machinery received from him and to take up the receipt given therefor.

Sec. 5. It shall be the duty of the county Commissioner when acting as road Commissioner to inform himself of the condition of the public roads in his district, and shall determine what character of work shall be done upon said roads, and shall direct the manner of grading, draining or otherwise improving the same, which directions shall be observed and obeyed by all road overseers of his district.

Sec. 6. The commissioner may require each road overseer in his district to call out the hands in such numbers as may be sufficient to perform the work, but no road hand shall be required to work exceeding five days in any one year, unless the term of service as prescribed by the general laws shall be extended beyond that time, and provided that all the road hands in a particular district shall, as far as practicable, be worked a uniform time. Each road overseer shall have full control of all road hands within his road district, and he shall see that each hand, when called out, shall perform a good days work, and if any hand when so called out shall fail or refuse to perform a good days work or to work in the manner the overseer may direct, he shall be liable to the same penalty as if he had failed to appear in obedience to the summons. The commissioners court may allow to any overseer who shall be engaged in the discharge of the duties of his office for more than five days during

any one year, a compensation not to exceed one dollar and one-half per day for the time so served.

Sec. 7. Any citizen of Collin county liable for road duty who shall on or before the first day of January of any year pay to the county treasurer the sum of \$3.00 shall be exempt from road duty for such year, beginning on the first day of January. The treasurer shall receive and receipt for all money so paid him and place the same to the credit of the road and bridge fund, and he shall keep a separate account for each road district, of all money so received by him, and the same shall be expended in the district from which it was received. The treasurer shall, on the third day of January, or as soon thereafter as practicable, furnish to each county commissioner, a list of all persons in their respective districts that have paid said sum as provided in this section.

Sec. 8. Whenever it shall be necessary to occupy any lands for the purpose of opening, widening, straightening or draining any road or part thereof, if the owner of such land and the county commissioners court can not agree upon the damage to be paid, the county may proceed to condemn the same in the same manner that a railroad company can condemn land for right of way and the same proceedings may be had and the same rights shall exist to each party as would exist if the proceedings were by a railroad company, except that the county shall in no case be required to give bond.

Sec. 9. Each county commissioner when acting as road commissioner and performing the duties imposed upon him by law or by the commissioners court shall be entitled to two dollars per day for the services actually performed; provided that he shall not receive more than forty-five dollars (\$45.00) per quarter when the road and bridge tax has not been levied as provided by law under the amendment of 1889, as adopted in 1890 to the Constitution of the State of Texas. And when said tax shall have been levied, he may receive an amount not to exceed ninety (\$90.00) dollars per quarter, which amount shall be paid out of the road and bridge fund when the account shall have been approved by the commissioners court, and the court shall not approve said accounts unless the commissioner presenting it shall first sign an oath that the account is just, due and unpaid, and specifying the number of days work actually performed by him, and that it was necessary to be done, and no commissioner shall be entitled to pay as road commissioner while he is performing the duties of county commissioner.

Sec. 10. This act shall be taken notice of by all courts in the same manner as the general law of the State, and it shall be construed to be cumulative of all general laws of the State on the subject of roads and bridges where not in conflict therewith, but in case of a conflict this act shall control as to the said county of Collin.

Sec. 11. The fact that there is now no sufficient road law in force in this State, creates an emergency and imperative public necessity, that the constitutional rule requiring bills to be read on three several days be suspended, and said rule is hereby suspended, and it is so enacted.

Approved April 4, 1891.

CRIMINAL PROCEDURE.

Sec. 1. Pleas of guilty in misdemeanors; special session authorized. when; minutes.

2. Emergency clause.

CHAP. 53.—[S. H. B. No. 77.] An Act to facilitate the disposition of certain criminal cases in county courts.

Section 1. Be it enacted by the Legislature of the State of Texas: That when any person, charged with a misdemeanor in the county court, shall desire to make speedy disposition of his case upon a plea of guilty, without the intervention of a jury, the county Judge shall be authorized and permitted to hold a special session of the court to dispose of such cause; and in such case, the court being in session, the county Judge may hear and determine such plea of guilty, and assess the punishment in like manner as if the defendant had been convicted at a regular term, and the same shall be duly entered of record in the minutes of the court, and the same proceedings shall be had to enforce the judgment as in other cases in the county court.

Sec. 2. The near approach of the close of the present session of the Legislature and the fact that there are many prisoners now confined in the jails awaiting an opportunity to plead guilty, creates an emergency, and an imperative public necessity exists that the constitutional rule requiring bills to be read on three several days, be suspended and that this act take effect from and after its passage and it is so enacted.

[Note.—The foregoing act originated in the House and passed the same by a vote of 74 yeas and 5 nays; and passed the Senate—vote not given.]

Approved April 4, 1891.

ROADS—GRAYSON, DALLAS, GALVESTON, BROWN, COMANCHE, MILLS, FANNIN, TRAVIS, HUNT, HILL, KAUFMAN AND FAYETTE COUNTIES.

Sec.

1. Commissioners court may employ road commissioner and fix his salary; subject to removal at any time; bond.
2. Commissioner to control teams, etc., and give receipt for same; certified copy of receipt as evidence; responsibility of sureties.
3. To control road overseers, and to deliver teams, tools, etc., and take receipt therefor; return of teams, etc.
4. Commissioner is bailee of teams, etc.; his liability.
5. Commissioner to determine character of work, establish grades, and direct manner of draining.
6. Calling out hands; term of work; penalty for refusing to work; compensation of overseer.

Sec.

7. Commissioners court to determine system of work; shall purchase teams, wagons, etc.; work of convicts; commissioners court may employ labor.
8. Farm hedges to be kept trimmed; penalty.
9. Contracts for supplies and materials; county commissioners to make rules for government of road commissioner, etc.; reports of road commissioner.
10. Manner of condemning land.
11. This act to be cumulative of general laws; term "road," "work and working" defined.
12. Commissioners court may exercise all authority herein granted, or may employ road commissioner.
13. Emergency clause.

CHAP. 54.—[H. B. No. 526.] An Act to be entitled an act to create a more efficient road system for the counties of Grayson, Dallas, Galveston, Brown, Comanche, Mills, Fannin, Travis, Hunt, Hill, Kaufman and Fayette in the State of Texas, authorizing the employment of a road commissioner, defining his duties, prescribing penalties for his failure to perform his duties, and further defining the powers and duties of the Commissioners courts of the said counties under this act.

Section 1. Be it enacted by the Legislature of the State of Texas: That the commissioners courts of Grayson, Dallas, Galveston, Brown, Comanche, Mills, Fannin, Travis, Hunt, Hill, Kaufman and Fayette

counties, if they deem it advisable so to do, may each employ one road commissioner for the county, who shall be a resident citizen of said county, and shall receive such compensation as may be fixed by said commissioners court, not to exceed one hundred dollars per month, to be paid out of the road and bridge fund of said county. Said road commissioner shall be subject to removal at any time by the said commissioners court. He shall, before entering upon the discharge of his duties, enter into a bond with two or more good and sufficient sureties, in the sum of \$2000, payable to the County Judge of the county and his successor in office, conditioned that such road Commissioner will faithfully discharge the duties of his employment as such commissioner, which bond shall be approved by the County Judge and acknowledged by the said Commissioner and the sureties as required for the acknowledgment of deeds, and recorded as required for the bonds of county officers.

Sec. 2. Subject to the orders and control of the Commissioners court, the road Commissioner shall have charge and control of all such teams, wagons, tools and machinery as the Commissioners court shall place in his custody for use on the public roads of said county and shall execute and deliver to the County Clerk of said county his receipt therefor, specifying each item and its value, which shall be filed by the Clerk of the County court in his office, and a certified copy thereof shall be admissible as evidence in any suit against said Commissioner and his sureties or either of them, on his bond for the said property or the value thereof, the same as the original would be. Said road Commissioner and his sureties shall be responsible on his bond for all such property thus turned over to him until he shall account therefor.

Sec. 3. The road Commissioner shall have control of all road overseers in the county and shall deliver to each all teams, tools, wagons and machinery necessary in working the roads in the district of such overseers, so far as he has been supplied therewith by the commissioners court, taking the receipt of said road overseer therefor, specifying each item and giving its value, which receipt shall be a full answer to the liability of the road commissioner for all such teams, wagons, tools and machinery. It shall be the duty of the road overseer, when he has finished the work on his road, to return to said road Commissioner all teams, wagons, tools and machinery received from him and to take up the receipt given for the same.

Sec. 4. Each road Commissioner and overseer, shall, as to all teams, wagons, tools and machinery delivered to him by the Commissioners court or the road Commissioner, be deemed and held to be the bailee of the county, and shall be responsible to the county for the value thereof until accounted for by him. It shall be sufficient to exempt the road Commissioner or any road overseer from liability for any property received by him as herein provided to show that he has delivered the same to any person authorized by law or by the orders of the Commissioners court of the county to receive the same, or that the same has died, been lost or destroyed without negligence or fault on his part.

Sec. 5. It shall be the duty of the road Commissioner of the county, so far as practicable and as soon as possible, to inform himself of the condition of the public roads of his county, and under such rules and regulations as may be prescribed by the Commissioners court of said county, said road Commissioner shall determine what character of work shall be done upon the different roads of his county, and when and wherever needed, he shall establish the grade of such roads and direct

the manner of draining the same, which directions shall be obeyed and observed by all road overseers unless changed by order of the Commissioners court.

Sec. 6. The road Commissioner may require each road overseer to call out the hands under his direction in such numbers as may be sufficient to use the teams, wagons, tools and machinery allotted to such road district and at such times as may be necessary, but no road hand shall be required to serve in any one year exceeding five days, unless the term of service as prescribed by the general law shall be extended beyond that term. Each road overseer shall have control of all hands within his road district and subject to road duty, and shall see that each such road hand shall perform his duty in working said roads, and that each hand when called out shall perform a fair day's work, and if any hand so called out shall refuse to work in a proper manner, or to do his part of any service assigned to him, such road overseer shall treat him as if he had failed to appear in obedience to the summons, and such hand shall be liable to the same penalties as if he had failed to appear in obedience to the summons. The Commissioners court may allow to any road overseer who shall be engaged in the discharge of the duties of his office for more than five days during any one year, a compensation not to exceed \$1.50 per day for the time so served over and above five days, and in addition thereto said court may enter an order exempting such road overseer from road duty in said county for the next succeeding year, if his service in the opinion of the court has been of a kind to merit such exemption.

Sec. 7. The Commissioners court of said county shall have full power and authority to adopt such system for working, laying out and repairing the public roads in said county as to said court may seem best, and from time to time said court may change its plans or system of work in such manner as it may deem advisable. The said Commissioners court shall have the power to purchase such teams, wagons, tools and machinery as may be necessary for the working of its public roads and also all material that may be needed therefor, all of which shall be paid for out of the road and bridge fund of said county. The Commissioners court of the county may, in its discretion, work the county convicts of said county upon the public roads, but it shall not pay any costs that may be adjudged against said convicts. As a reward for faithful services and good behavior while engaged at any work upon the public roads, the said Commissioners court shall have the authority to grant a reasonable commutation of time for which any convict would be compelled to work in order to pay his fine and costs, and such court shall make proper rules and regulations to govern and control in the granting of such commutation. The said commissioners court shall have authority to employ such labor as may be necessary to work the public roads of the county, to be paid for out of the road and bridge fund; such labor shall be under the control of the road Commissioner, if one shall be employed, or under such other person or persons as said court may direct and employ for that purpose.

Sec. 8. Every owner of a farm or other lands upon which a hedge of any description grows on or near the line of a public road shall be required to keep the same trimmed so that the height of the same shall not exceed five feet above the level of the ground, and any such owner who shall fail or neglect to so trim such hedge shall be notified in writing by the road overseer of that district to trim such hedge as herein required.

and in case such owner shall, after receiving such notice, fail or refuse to so trim said hedge within a reasonable time, he shall be deemed guilty of a misdemeanor and upon conviction, shall be fined in any sum not to exceed \$20 per week from and after the time that he received such notice, such fine to be paid into the county treasury and to be placed to the credit of the road and bridge fund of said county. If any owner of any farm shall fail or refuse after being notified as herein required to trim his hedge as required by this act, then the road overseer shall cause the same to be trimmed in accordance with the provisions of this act, to be paid for out of the road and bridge fund of the county.

Sec. 9. The Commissioners court of said county may make contracts for all supplies and materials to be used in feeding the hands and teams employed on the public roads and in the work of the same, and may make rules and regulations by which the same and all contracts shall be paid by the county, and all persons employed by said court shall be governed by such rules and regulations. The said court, may from time to time, make all necessary rules and regulations for the government of the road Commissioner and all persons employed by said county on the public roads, which rules and regulations shall be entered upon the minutes of the court and a certified copy delivered to each person to be governed thereby. Said court may require of the road Commissioner to make reports at such times and in such manner as may be prescribed by the said court, and any road Commissioner refusing to make such reports shall be removed and shall be deemed guilty of a misdemeanor and upon conviction shall be fined in a sum not to exceed \$100.00.

Sec. 10. Whenever it shall be necessary to occupy any lands, for the purpose of opening, widening, straightening or draining any road, or any part thereof, if the owner of such land and the county cannot agree upon the damages to be paid, the county may proceed to condemn the same in the same manner that a railroad company can condemn lands for right of way, and the same proceedings shall be had and the same rights shall exist as to each party as would exist if the proceedings were by a railroad company, except that the county shall not be required in any case to give bond.

Sec. 11. This act shall be taken notice of by all courts in the same manner as a general law of the state, and it shall be construed to be cumulative of all general laws of the state on the subject of roads and bridges where not in conflict therewith: but in case of such conflict this act shall control as to the said counties of Grayson, Dallas, Galveston, Brown, Comanche, Mills, Fannin, Travis, Hunt, Hill, Kaufman and Fayette. The term "roads," includes the roadbed, ditches and drains, the bridges and culverts, and every part of such road. The term, "work and working" as used herein, shall include the opening and laying out of new roads, widening roads, constructing and building, repairing and draining of such roads, and everything that may be done in and about the maintenance of such road.

Sec. 12. The Commissioners court of each of the counties named in this act shall have the right to exercise all the authority and powers herein given, and neither of said counties shall be compelled to employ a road Commissioner, unless the Commissioners court of such county shall deem it advisable so to do; provided, that the Commissioners court of either of the aforesaid counties shall appoint a road Commissioner as herein provided for, then the county Commissioners of the county, making said

appointment shall not be required to perform the duties required of them by article 4390a, of the revised civil statutes of the state.

Sec. 13. The fact that public travel is greatly impeded by reason of the bad condition of the roads in said counties, and that the Commissioners courts thereof have not the power to enforce the needful system of road work and supervision herein provided for, creates an emergency and imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act originated in the House, and passed the same by a vote of 86 yeas and no nays; and passed the Senate by a vote of 22 yeas and no nays.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the twenty-fifth day of March, A. D. 1891, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the constitution, and thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

MENARD, HEMPHILL AND COKE COUNTIES—JURISDICTION OF COUNTY COURT DIMINISHED.

Sec.

1. Defines jurisdiction of county courts of said counties.
2. Defines jurisdiction of district courts of said counties.
3. County clerks to make transcripts of dockets for district clerks; transfer and docketing of causes.

Sec.

4. Does not affect previous judgments; executions and orders of sale.
5. Repealing clause.
6. Emergency clause.

CHAP. 55.—[H. B. No. 561.] An act to diminish the civil and criminal jurisdiction of the County courts of Menard, Hemphill and Coke counties.

Section 1. Be it enacted by the Legislature of the State of Texas: That the County Courts of Menard, Hemphill and Coke counties shall have and exercise the general jurisdiction of a Probate court; shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis and common drunkards, grant letters testamentary and administration, settle accounts of executors, administrators and guardians, transact all business appertaining to the estates of deceased persons, minors; idiots, lunatics, persons non compos mentis and common drunkards, including the settlement and partition and distribution and settlement of estates of deceased persons, and to apprentice minors as provided by law, and issue writs necessary to the enforcement of said jurisdiction, to punish contempt under such provisions as are or may be provided by general law governing County courts throughout the state, but the said county courts of Menard, Hemphill and Coke counties shall have no other civil or criminal jurisdiction whatever.

Sec. 2. The District courts of Menard, Hemphill and Coke counties shall have and exercise jurisdiction in all civil and criminal matters and causes over which, by the laws of this state, the County courts of said counties would have jurisdiction, except as provided in section one of this act; and all causes other than probate matters and such as are provided by section one of this act, be and the same are hereby transferred to the District Courts of Menard, Hemphill and Coke counties; and all writs and processes relating to any civil or criminal matters not included

in the subject matters of jurisdiction prescribed in section one of this act, issued by or out of said courts of Menard, Hemphill and Coke counties be and the same are hereby made returnable to the next term of the District court of said counties.

Sec. 3. The County Clerks of Menard, Hemphill and Coke counties, be and they are hereby required within thirty days after the passage of this act, to make a fair and complete transcript of all entries upon their civil and criminal dockets, heretofore made in causes where by section two are required to be transferred to the District court of said counties, and delivered the same to the District Clerk of said counties, together with all the papers to such cause pertaining, and all such causes shall be immediately docketed by said District Clerk, and such civil causes so transferred shall stand on the docket of said courts as appearance cases for the next succeeding term, and all criminal cases shall be docketed and disposed of in the same manner as if the same had originally been triable in said District courts.

Sec. 4. This act shall not be construed to in any manner affect judgments heretofore rendered by said County courts of Menard, Hemphill and Coke counties, pertaining to matters and causes by which section two of this act are transferred to the District courts of said counties, but the County Clerks of said counties shall issue all executions and orders of sale as the judgments in such cases require, and such executions and orders of sale and proceedings thereunder shall be as valid and binding to all intents and purposes as though the change had not been made as by section two therein contemplated.

Sec. 5. All laws and parts of laws in conflict with this act are hereby repealed.

Sec. 6. The near approach to the sitting of the District Courts in Menard, Hemphill and Coke counties and the short time required to make the transfer of the cases provided for in this act, creates an imperative public necessity, and an emergency requiring the constitutional rule, requiring bills to be read on three several days, necessitates the suspension of that rule, therefore said rule is suspended and this act shall take effect and be in force from and after its passage.

[Note.—The foregoing act originated in the House, and passed the same by a vote of 72 yeas and no nays; and passed the Senate by a vote of 22 yeas and no nays.]

[Note.—The foregoing act, was presented to the Governor of Texas for his approval on the twenty-fifth day of March, A. D. 1891, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the constitution and thereupon became a law without his signature.—Geo. W. Smith Secretary of State.]

**TRAVIS, CARSON AND BANDERA COUNTIES—JURISDICTION OF
COUNTY COURTS RESTORED.**

Sec.

1. Defines original and concurrent jurisdiction in civil cases of county courts of said counties.
2. Appellate jurisdiction of county courts.
3. County judge has authority to issue writs of mandamus, etc.
4. Forfeiture of bonds and recognizances in criminal cases.
5. Original jurisdiction in misdemean-

Sec.

- ors; exception; concurrent jurisdiction.
6. Defines jurisdiction of district courts of said counties; duties of clerks.
7. Power to hear motions against officers for failure to pay over moneys; penalty.
8. Repealing clause.
9. Emergency clause.

CHAP. 56.—[H. B. No. 569.] An act to restore and confer upon the County Courts of Travis county, Carson county and Bandera county the civil and criminal jurisdiction heretofore belonging to said courts under the constitution and general laws of the state, and to conform the jurisdiction of the District courts of said counties to such change and to repeal all laws in conflict with this act.

Section 1. Be it enacted by the Legislature of the State of Texas: That the County courts of Travis county, Carson county and Bandera county shall hereafter have exclusive original jurisdiction in civil cases where the matter in controversy shall exceed in value two hundred dollars and shall not exceed five hundred dollars exclusive of interest, and shall have concurrent jurisdiction with the District court of said counties when the matter in controversy shall exceed five hundred dollars and not exceed one thousand dollars.

Sec. 2. Said County courts shall have appellate jurisdiction in civil cases over which Justices' courts have original jurisdiction when the judgment of the court appealed from or the amount in controversy shall exceed twenty dollars, and said County courts shall have power to hear and determine cases brought up from the Justices court by certiorari under the provisions of the title of the revised statutes relating thereto.

Sec. 3. The County Judge in said counties shall have authority, either in term time or in vacation, to grant writs of mandamus, injunction, sequestration, garnishment, attachment, certiorari, supersedeas and all other writs necessary to the enforcement of the jurisdiction of said courts, and shall also have power to issue writs of habeas corpus in all cases in which the constitution has not exclusively conferred the power on the District courts or Judges thereof.

Sec. 4. Said County courts shall have jurisdiction in the forfeiture and judgment of all bonds and recognizances taken in criminal cases, of which criminal cases said courts have original or appellate jurisdiction.

Sec. 5. Said County courts shall have exclusive original jurisdiction of all misdemeanors except misdemeanors involving official misconduct, and except cases in which the highest penalty of fine that may be imposed under the law may not exceed two hundred dollars, and shall have original jurisdiction of all misdemeanors except those involving official misconduct, and concurrent jurisdiction with that of Justices of the Peace in criminal cases, and appellate jurisdiction in criminal cases, of which Justices of the Peace and other inferior tribunals of said counties have original jurisdiction.

Sec. 6. The District courts of said counties of Travis, Carson and Bandera shall no longer have jurisdiction of misdemeanors except misdemeanors involving official misconduct, and shall no longer have jurisdiction of cases of which the County courts of said counties by the provisions of this act, have original or appellate jurisdiction; and it shall be the duty of the District Clerks of said counties, within thirty days after this act shall take effect, to make full and complete transcripts of all orders on the criminal and civil dockets in cases then pending before

the District courts of said counties, of which cases by the provisions of this act original and appellate jurisdiction is given to the said County courts, and to deliver said transcripts together with the original papers and a certified bill of costs in each case, to the County Clerks of said counties, and said County Clerks shall take charge of said transcripts and papers, file the same, and enter said cases on their respective dockets for trial by said courts.

Sec. 7. The said County courts shall also have the power to hear and determine all motions against Sheriffs and other officers of the court for failure to pay over moneys collected under the process of said court, or other defalcation of duty in connection with such process, and shall have power to punish by fine not exceeding one hundred dollars, and by imprisonment not exceeding three days, any person guilty of contempt of said court, and all other powers and jurisdiction conferred on County courts by the constitution and general laws of this state.

Sec. 8. All laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

Sec. 9. The near approach of the close of the session and the importance of transferring without delay the jurisdiction of the County courts, creates an emergency and imperative necessity that the law requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act originated in the House and passed the same by a vote of 81 yeas and no nays; and passed the Senate by a vote of 21 yeas and no nays.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 25th day of March, A. D. 1891, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the constitution and thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

LIMITATIONS.

Sec.

1. Amends chapter 1, title 62, R. S., by adding articles 3195a and 3195b.
- Article 3195a. Peaceable and adverse possession defined where land is entirely surrounded by the land of another.

Sec.

- Article 3195b. Peaceable and adverse possession defined where land is separated by fence, or in actual possession.
2. Emergency clause.

CHAP. 57.—[S. H. B. No. 39.] An act to amend Chapter 1, title 62, of the Revised Civil Statutes of Texas, relating to limitation of actions for land, by adding thereto articles 3195a and 3195b.

Section 1. Be it enacted by the Legislature of the State of Texas: That chapter 1, title 62, of the Revised Civil Statutes of the State of Texas be amended by adding thereto articles 3195a and 3195b, which shall read as follows:

Article 3195a. A tract of land owned by one person, entirely surrounded by a tract or tracts owned, claimed or fenced by another, shall not be considered enclosed by a fence enclosing the circumscribing tract or tracts, or any part thereof; nor shall the possession by the owner or claimant of such circumscribing land, of such interior tract be the peaceable and adverse possession contemplated by article 3194, unless the same be segregated and separated from the circumscribing land by a fence, or

unless at least one tenth thereof be cultivated and used for agricultural purposes, or used for manufacturing purposes.

Article 3195b. Possession of land belonging to another by a person owning or claiming five thousand acres or more of lands enclosed by a fence in connection therewith, or adjoining thereto, shall not be the peaceable and adverse possession contemplated by article 3194, unless said land so belonging to another shall be segregated and separated by a substantial fence from said lands connected therewith or thereto adjoining, or unless at least one tenth thereof shall be cultivated and used for agricultural purposes, or used for manufacturing purposes, or unless there be actual possession thereon.

Sec. 2. The near approach of the close of this session creates an emergency and an imperative public necessity exists requiring that the constitutional rule which requires bills to be read on three several days be suspended and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act originated in the House and passed the same March 9, 1891; and passed the Senate March 25, 1891—vote not given.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the twenty-seventh day of March, A. D. 1891, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the constitution, and thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

PUBLIC EDUCATION.

Sec. 1. Counties transferred from community school system to district school system.

2. Emergency clause.

CHAP. 58.—[H. B. No. 522.] An Act to place certain counties, now under the community school system, under the district school system.

Section 1. Be it enacted by the Legislature of the State of Texas: That the following named counties are hereby transferred from the community school system to the district school system, and are hereby authorized and empowered to organize and conduct all of their public free schools under the district system as provided by the laws now in force, to-wit: The counties of Hays, Reeves, Henderson, Bowie, Falls, Fannin and Lampasas.

Sec. 2. The near approach of the close of this session of the Legislature, and the fact that a new scholastic year is approaching, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and it is so enacted, and this act shall take effect from its passage, and it is so enacted.

[Note.—The foregoing act originated in the House and passed the same by a vote of 73 yeas and no nays; and passed the Senate by a vote of 24 yeas and no nays.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval the 27th day of March, A. D. 1891, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the constitution, and thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

COMMISSION OF APPEALS.

Sec.

1. Amends sections 1, 5, 15, Chap. 55, acts of 1889, and sections 6, 9, 13 and 14, act of March 30, 1887.
 - (1.) Creates Commission of Appeals; appointment, qualification and salaries of Judges; vacancies, how filled; sessions of commission.
 - (5.) Reference of cases to Commission of Appeals; notice to counsel.
 - (6.) Opinion of Commissioners of

Sec.

- Appeals to be submitted to supreme court.
- (7.) Opinions to be published when adopted by the supreme court.
- (9.) Shall hold sessions at same time and place as supreme court; duties of clerk.
- (14.) This act becomes inoperative, when.
- (15.) Emergency clause.

CHAP. 59.—[S. B. No. 183.] An Act to amend sections 1, 5 and 15 of chapter 55 of the acts of 1889, in reference to the Commission of Appeals, and sections 6, 9, 13 and 14 of chapter 95, entitled an act to create a Commission of Arbitration and Award, and define the powers and duties thereof, and to make an appropriation to pay the salaries of the Judges thereof.

Be it enacted by the Legislature of the State of Texas: That sections 1, 5 and 15, of chapter 55, of the acts of 1889, entitled, "An act to amend sections 1, 5 and 15, of an act entitled an act to create a Commission of Arbitration and Award, and define the power and duties thereof, and to make an appropriation to pay the salaries of the Judges thereof," approved March 26, 1889; and sections 6, 9, 13 and 14, of chapter 95, entitled, "An act to create a Commission of Arbitration and Award and define the powers and duties thereof, and to make an appropriation to pay the salaries of the Judges thereof," approved March 30, 1887, be so amended as to hereafter read as follows:

Section 1. That a Commission of Arbitration and Award be, and the same is hereby created, to be styled, "The Commission of Appeals of the State of Texas." Said Commission shall be composed of six persons who shall be learned in the law and possess the same qualifications and receive the same salaries as Judges of the Supreme Court, who shall be appointed by the Governor by and with the advice and consent of the senate, if in session, and who shall hold their offices for two years, except as herein otherwise provided. The first appointment made under this act shall be made to take effect on the first day of April, 1891, and the Judges so appointed shall hold their offices for two years, and thereafter appointments made under this act shall be made biennially. In case of a vacancy on said Commission by death, resignation or otherwise of any member thereof during the vacation of the Legislature it shall be the duty of Governor to fill the same by appointment; and the person so appointed shall continue in office until the next regular session of the Legislature after the appointment. And said Commission of Appeals shall sit in two sections of three Judges each during the term and at the place where the Supreme Court may be sitting.

Sec. 5. The Supreme Court is hereby authorized and empowered to refer to said Commission of Appeals any case or cases now or hereafter pending before said Court, for examination and report thereon. And it shall be the duty of said Supreme Court, in order to relieve the docket of said Court of the great number of cases encumbering the same, from time to time, to refer to said Commission of Appeals, so many of said cases now or hereafter pending in said Court as may be reasonably considered and acted upon by the same at the several sessions thereof. Provided, That when any case is referred by the Supreme Court to said Commission of Appeals, the counsel for both parties, or the parties themselves shall be entitled to notice, and shall have the right to be heard upon the same, although said cause may have been argued before the Supreme Court; which notice shall be given by registered letter sent by mail addressed to the parties or their attorneys of record; and six days

after the mailing thereof said cause shall be ready for submission, and no other costs shall be incurred for serving said notice on said parties save the postage thereon. And said Commission of Appeals shall make rules regulating the hearing of causes submitted or referred to the same.

Sec. 6. When said Commission of Appeals have considered and determined upon the proper disposition of any case referred to the same according to section 5 of this act, their opinion, which shall contain a brief synopsis of the case, shall be submitted to the Supreme Court and the record shall be returned therewith.

Sec. 7. The opinions of said Commissioners of Appeals in cases referred to it by the Supreme Court, when adopted by said Court shall be published as the opinions thereof as in other cases.

Sec. 9. Said Commission shall hold its sessions at the same times and places as the Supreme Court, and the duties of Clerk of said Commission shall be performed by the Clerks of the Supreme Court at the different branches thereof, unless said commission shall appoint its own Clerk, and no extra fees will be allowed said Clerks, except for such additional service as may be required of them by said Commission.

Sec. 14. This act shall become inoperative and the term of said Commission appointed hereunder shall cease, whenever by the adoption of an amendment to the judiciary article of the constitution, or by legislation under such newly adopted amendment the number of Judges of the Supreme Court may be increased.

Sec. 15. Whereas, the docket of the Supreme Court is still in a crowded condition, and the Supreme Court is unable to transact the business before it, which is increasing, and it is impossible to hope for a speedy determination of cases in the ordinary course of justice, it creates an emergency, and an imperative public necessity exists for the suspension of the constitutional rule requiring bills to be read on three several days, and said rule is hereby suspended, and that this act shall take effect and be in full force from and after its passage, and it is so enacted.

[Note.—The foregoing act originated in the Senate and passed the same by a vote of 23 yeas and no nays; and passed the House by a vote of 78 yeas and 9 nays.]

Approved April 8, 1891.

TOWNS AND VILLAGES—VALIDATING INCORPORATION OF.

Sec.

1. Amends article 541a, R. S.

Article 541a. Towns and villages may incorporate for school pur-

Sec.

poses only; territory; election; duty of county judge; school fund.

2. Emergency clause.

CHAP. 60.—[S. H. B. No. 112.] An Act to amend article 541a of the Revised Civil Statutes of the State of Texas, and to validate incorporations of Towns and Villages heretofore made under certain conditions.

Section 1. Be it enacted by the Legislature of the State of Texas: That article 541a of chapter 11, title 17, of the revised civil statutes of the State of Texas be so amended as to hereafter read as follows:

Article 541a. Towns and villages authorized to incorporate under this chapter, or having 200 inhabitants or over, not desiring to incorporate for municipal purposes, may incorporate for free school purposes only; provided, that the territory incorporated shall not exceed four miles square,

and when so desiring an election may be held under the provisions of this title and chapter, and if at said election a majority of the votes cast be in favor of the corporation, it shall be the duty of the County Judge to make return thereof and cause a record of the result of such election to be made, the same as is provided by article 512 and 513 of this chapter, upon which entry being made such town or village shall be regarded as duly incorporated for the purpose of establishing and maintaining a free school therein, and shall upon notice to the State board of education by the board of trustees hereinafter provided for, receive such pro rata share of the available school fund as its scholastic population may entitle it to; and it is further enacted that all towns and villages heretofore incorporated under the provisions of said article as it heretofore existed, but which incorporation is invalid by reason of having incorporated more territory than a radius of two miles from the center of said town or village.

Sec. 2. There being many towns and villages in the State that desire to incorporate for free school purposes, and it being important that such incorporation should be duly organized and ready for taking charge of the schools before next scholastic year, and whereas, great confusion, difficulty and loss may occur from any delay in the final passage of this act, thereby creating an emergency and imperative public necessity for the suspension of the constitutional rule requiring bills to be read on three several days, therefore said rule is hereby suspended, and this act shall take effect and be in force from and after its passage.

[Note.—The foregoing act originated in the House, and passed the same by a vote of 96 yeas and no nays; and passed the Senate—vote not given.]

Approved April 10, 1891.

SUPREME COURT AND COURT OF APPEALS.

Sec.

1. Amends articles 1007 and 1008. R. S.
Article 1007. Counties returnable on appeal and error to Galveston; cases to be transferred.

Sec.

- Article 1008. Counties so returnable to Austin.
2. Repealing clause.
3. Emergency clause.

CHAP. 61.—[S. H. B. No. 216.] An Act to amend article 1007 of an act passed by the nineteenth Legislature and approved March 26, 1885, entitled "An Act to amend articles 1006, 1007 and 1008 of the Revised Civil Statutes of the State of Texas, approved February 21, 1879, passed by the eighteenth Legislature and approved April 9, 1883," and to amend article 1008 of an act passed by the twenty-first Legislature and approved February 21, 1889, entitled "An Act to amend articles 1006 and 1008 of an act passed by the twentieth Legislature, approved March 25, 1887, entitled an act to amend articles 1006 and 1008 of an act passed by the nineteenth Legislature, approved March 26, 1885, entitled an act to amend articles 1006, 1007 and 1008 of an act entitled an act to amend articles 1006, 1007 and 1008 of Revised Civil Statutes of the State of Texas, approved February 21, 1879, passed by the eighteenth Legislature and approved April 9, 1883."

Section 1. Be it enacted by the Legislature of the State of Texas: That articles 1007 and 1008 of the above recited acts sought hereby to be amended be and the same are hereby amended so as hereafter to read as follows:

Article 1007. Appeals and writs of error from the counties of Aransas, Angelina, Austin, Bee, Brazoria, Brown, Burleson, Brazos, Calhoun, Cameron, Chambers, Colorado, DeWitt, Dallas, Duval, Encinal, Fayette, Fort Bend, Val Verde, Freestone, Galveston, Goliad, Gonzales, Grimes,

Harris, Hardin, Hidalgo, Houston, Jackson, Jasper, Jefferson, Lavaca, Leon, Liberty, Madison, Matagorda, Montgomery, Newton, Nueces, Orange, Polk, Refugio, San Jacinto, San Patricio, Starr, Trinity, Tyler, Tarrant, Johnson, Victoria, Walker, Waller, Washington, Webb, Wharton and Zapata, shall be returnable to the term of said courts at Galveston, provided that all cases from the county of Dallas, pending in the Supreme Court and Court of Appeals at Austin and undetermined at the adjournment of the term of said courts commencing on the first Monday in April, 1891, shall be transferred to Galveston, and shall be entered upon the dockets of said courts at Galveston and shall be tried and determined in the same manner as if said cases had been made originally returnable to the term of said courts held at Galveston.

Article 1008. Appeals and writs of error from the counties of Andrews, Archer, Armstrong, Atascosa, Bailey, Bandera, Bastrop, Baylor, Bell, Bexar, Blanco, Borden, Bosque, Briscoe, Burnett, Caldwell, Callahan, Carson, Castro, Childress, Collingsworth, Comal, Comanche, Concho, Cooke, Coryell, Cottle, Crockett, Cochran, Clay, Coleman, Collins, Crosby, Dallam, Dawson, Deaf Smith, Denton, Dickens, Dimmitt, Donley, Eastland, Edwards, El Paso, Erath, Falls, Fannin, Fisher, Floyd, Frio, Gaines, Garza, Gillespie, Gray, Grayson, Greer, Guadalupe, Hale, Hall, Hamilton, Hansford, Hardeman, Hartley, Haskell, Hays, Hemphill, Hill, Hockley, Hood, Howard, Hutchinson, Jack, Jones, Karnes, Kendall, Kent, Kerr, Kimble, King, Kinney, Knox, Lamar, Lamb, Lampasas, La Salle, Lee, Limestone, Lipscomb, Live Oak, Llano, Lubbock, Lynn, Martin, Mason, Maverick, McCulloch, McLennan, McMullin, Medina, Menard, Midland, Milam, Mitchell, Montague, Moore, Motley, Nolan, Ochiltree, Oldham, Parmer, Palo Pinto, Parker, Pecos, Potter, Presidio, Randall, Reeves, Roberts, Robertson, Runnels, San Saba, Scurry, Shackelford, Sherman, Somervell, Stephens, Stonewall, Swisher, Taylor, Terry, Throckmorton, Tom Green, Travis, Uvalde, Wheeler, Wichita, Wilbarger, Williamson, Wilson, Wise, Yoakum, Young and Zavalla, shall be returnable to the term of said courts held at Austin.

Sec. 2. All laws and parts of laws in conflict with this act are hereby repealed.

Sec. 3. The near approach of the close of the session and the great press of business rendering it improbable that this bill will be reached in both houses in its regular order, and the importance of a more equal distribution of the work of the Supreme Court and of the Court of Appeals at the several places where their terms are held, create an emergency and an imperative public necessity for the suspension of the constitutional rule requiring bills to be read on three several days, and such rule is hereby suspended.

Approved April 13, 1891.

ALIENS.

Sec.

1. Amends articles 9 and 10, R. S., and adds articles 10a, 10b, 10c, 10d, 10e, 10f, 10g, 10h.

Article 9. Reciprocal rights.

Article 10. Alien ownership of lands prohibited.

Article 10a. Does not apply to aliens who become citizens in six years after declaration of intention.

Article 10b. Aliens may hold lands by devise or descent six years; alien minors and persons of unsound mind.

Sec.

Article 10c. Aliens may purchase lands under deed of trust, when.

Article 10d. Lands held contrary to the provisions of this act shall escheat to the State.

Article 10e. Duties of Attorney General and district attorneys.

Article 10f. Escheat proceedings governed by provisions of title 36, R. S.; exception.

Article 10g. Repealing clause.

2. Emergency clause.

CHAP. 62.—[S. H. B's. Nos. 42 and 137.] An Act to amend title three, articles 9 and 10 and to add articles 10a, 10b, 10c, 10d, 10e, 10f, 10g and 10h, and to repeal all laws in conflict herewith.

Section 1. Be it enacted by the Legislature of the State of Texas: That title III and articles 9 and 10 be amended and by the addition of articles 10a, 10b, 10c, 10d, 10e, 10f, 10g and 10h, so as to hereafter read as follows.

Article 9. An alien shall have and enjoy in the State of Texas, such rights pertaining to personal property as are or shall be accorded to citizens of the United States by the laws of the nation to which such alien shall belong, or by the treaties of such nation with the United States.

Art. 10. No alien or a person who is not a citizen of the United States of America, shall acquire title to or own any interest in the lands within the State of Texas, and any deed or other conveyance purporting to convey such title or interest to any alien or unnaturalized foreigner or to any firm, company or corporation composed of such in whole or in part shall be void.

Art. 10a. This chapter shall not apply to any alien who shall, at the time of acquiring title to lands in Texas, have declared his intention of becoming a citizen of the United States of America, and who shall in obedience to such laws, become a citizen within six years from the time such intention was declared.

Art. 10b. All aliens who shall hereafter take lands by devise or descent, may hold the same for the space of six years and no longer. Provided, that any alien minor or person of unsound mind inheriting lands in Texas, may have six years after such minor reaches twenty-one years of age, or person of unsound mind shall have had a legal guardian.

Art. 10c. Any alien may, for a valuable consideration, take, hold, assign, foreclose, sell or buy under any mortgage or deed of trust, any lands within the State of Texas, in which he has an interest by virtue of having heretofore made a loan of money, subject to the provisions of this chapter in reference to alienating said lands within six years, as herein required.

Art. 10d. If any alien shall undertake to hold lands for a longer time, or in any way contrary to the provisions of this chapter, such lands shall escheat to and vest in the State of Texas in like manner as is provided for the escheat of estates of persons dying without any devise thereof and having no heirs.

Art. 10e. It shall be the duty of the Attorney General and District or County Attorney, when they shall be informed or have reason to believe that any lands in this state are being held contrary to the provisions of this chapter, to institute suit in behalf of the State of Texas in the District court of the county where such lands are situated, praying for a writ of possession for the same in behalf of the State.

Art. 10f. The escheat proceedings provided for in the next preceding

article shall, in the matter *scire facias*, appearance and default, judgment, execution and sale be governed by the provisions of title 36 of the Revised Statutes of Texas, in so far as the same is applicable, except that the only question on the trial shall be whether or not the provisions of this act have been violated.

Art. 10g. All laws and parts of laws in conflict with this title are hereby repealed.

Sec. 2. The near approach of the close of the session and the importance of a law prohibiting the alien ownership of lands in Texas, creates an emergency and imperative necessity that the constitutional rule requiring bills to be read on three several days be suspended and it is so enacted.

Approved April 13, 1891.

JUDICIAL DISTRICT—TWENTY-THIRD.

Sec.

1. Amends Sec. 23 of act of April 9, 1883.

(23.) Counties composing Twenty-third district; terms of court.

Sec.

2. Repealing clause.

3. Emergency clause.

CHAP. 63.—[H. B. No. 591.] An act to amend section 23 of "an act entitled an act to redistrict the state into judicial districts and fix the times for holding court therein and to provide for the election of Judges and District Attorneys in said districts at the next general election to be held on the first Tuesday after the first Mondays in November, 1884," approved April 9, 1883.

Section 1. Be it enacted by the Legislature of the State of Texas: That section 23 of the above entitled act be so amended as to hereafter read as follows:

Sec. 23. The twenty-third Judicial district shall be composed of the counties of Brazoria, Jackson, Fort Bend, Matagorda, Waller and Wharton and the District court shall be held therein as follows:

In the county of Waller, on the first Mondays in February and August, and may continue in session three weeks.

In the county of Fort Bend, on the third Monday after the first Monday in March and September and may continue in session four weeks.

In the county of Wharton, on the seventh Monday after the first Mondays in March and September, and may continue in session three weeks.

In the county of Jackson, on the tenth Monday after the first Mondays in March and September, and may continue in session two weeks.

In the county of Matagorda, on the thirteenth Monday after the first Mondays in March and September, and may continue in session two weeks.

In the county of Brazoria, on the fifteenth Monday after the first Mondays in March and September and may continue in session until the business is disposed of.

Sec. 2. That all laws and parts of laws in conflict herewith be and the same are hereby repealed.

Sec. 3. That whereas the fact that another regular session of the Legislature will not be held for two years and the further fact that the present session is drawing to a close, and the fact that the farmers of Waller county are unnecessarily detained and hindered in their farm work by the law as it now stands, creates an emergency and imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and it is so enacted.

Approved April 13, 1891.

ANIMALS—SALE OF.

- Sec. 1. False pedigree and false certificate of sale of animals prohibited; penalty.
 2. Emergency clause.

CHAP. 64.—[S. B. No. 351.] An Act to provide for the punishment of persons furnishing, giving or using any false pedigree or false certificate of sale.

Section 1. Be it enacted by the Legislature of the State of Texas: That any person who shall knowingly and wilfully furnish or give to a purchaser of any animal, any false pedigree or false certificate of sale of such animal, and every person who shall knowingly and wilfully use, for the purpose of deceiving, any false pedigree or false certificate of sale of any animal, whether such false pedigree or false certificate of sale was furnished, given or procured in this state or elsewhere, shall upon conviction thereof be punished by a fine in any sum not less than twenty-five nor more than five hundred dollars, or be imprisoned in the county jail for a term not exceeding six months, or by both such fine and imprisonment.

Section 2. The near approach of the end of the session creates an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and it is so enacted.

Approved April 13, 1891.

PUBLIC EDUCATION.

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| <p>Sec.
 1. Amends Sec. 31 of act of February 6, 1884.
 Sec. 31. Levy of tax for building</p> | <p>Sec.
 school houses; order of commissioners court for election; notice.
 2. Emergency clause.</p> |
|---|--|

CHAP. 65.—[H. B. No. 381.] An Act to amend Section 31, of an act to establish and maintain a system of public free schools for the State of Texas and to repeal so much of chapter 3, of title 78, of the Revised Civil Statutes as refer to public free schools outside of cities and towns assuming or having assumed control of their public schools, and all laws and parts of laws, in conflict with this act passed by the special session of the 18th Legislature which was presented to the Governor for his signature on the 6th day of February, 1884, and became a law without his approval.

Section 1. Be it enacted by the Legislature of the State of Texas: That section 31 of an act to establish and maintain a system of public free schools for the State of Texas, and to repeal so much of chapter 3 of title 78 of the Revised Civil Statutes of Texas, as refer to public free schools outside of cities and towns assuming or having assumed control of their public free schools, and all laws and parts of laws in conflict with this act passed by the special session of the 18th Legislature, which was presented to the Governor for his signature on the 6th day of February, 1884, and became a law without his approval be so amended as to read as follows:

Section 31. That whenever twenty or more qualified property holding tax paying voters of any district, or a majority of such voters in any district, wish for the purpose of taxing themselves, for the building of school houses, or supplementing the state school fund apportioned to said district, shall make application to the County Commissioners court duly signed by them, said Court shall enter up an order for an election to be held in said district, to determine whether such tax shall be levied

or not; said application shall designate the amount of tax, asked to be levied, and the order of said court shall state:

1st. When said election shall be held.

2nd. At what point or points the polls shall be opened.

3rd. The amount of tax to be voted on; provided, that no election shall be held to determine the levy of a tax exceeding twenty cents on the one hundred dollars valuation of property.

The Commissioners court shall order the Sheriff to give notice of such election by posting three notices in the district for three weeks before the election, and the Sheriff shall obey such order. Not more than one such election shall be held in the same scholastic year.

Sec. 2. There being no law permitting elections to be held in many districts for levying a special school tax, creates an imperative public necessity that the constitutional rule requiring bills to be read on three several days should be suspended and it is so suspended and this act shall take effect and be in force from and after its passage.

[Note.—The foregoing act originated in the House and passed the same by a vote of 79 yeas and 4 nays, and passed the Senate—vote not given.]

Approved April 13, 1891.

PLEADING.

Sec. 1. Amends article 1574, title 32, R. S.—Certain pleadings to be in writing under oath.

2. Emergency clause.

CHAP. 66.—[H. B. No. 118.] An Act to amend article 1574, title 32, of the Revised Civil Statutes of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas: That article 1574, title 32, of the Revised Civil Statutes of the State of Texas, be so amended as to hereafter read as follows:

Article 1574. An answer or other pleading setting up any of the following matters shall be in writing and signed by the party or his attorney and verified by affidavit:

1. That the suit is not commenced in the proper county or precinct.
2. That the Plaintiff has not legal capacity to sue.
3. That the Plaintiff is not entitled to recover in the capacity in which he sues.
4. That there is another suit pending in this state between the same parties for the same cause of action or counter claim.
5. That there is a defect of parties, plaintiff or defendant.
6. That the plaintiffs or defendants suing or sued as partners or receiver, are not the partners or receiver as alleged.
7. That the plaintiff or defendant suing or sued as a corporation is not a corporation as alleged.
8. That a written instrument purporting to be signed by him and relied on by the other party was not executed by him or by his authority.
9. That the endorsement or assignment of a written instrument pleaded by the adverse party was not executed by the party by whom it purports to have been executed, or by his authority.
10. That a written instrument pleaded by the adverse party is without consideration, or that the consideration of the same has failed, in whole or in part.

11. That an account pleaded by the adverse party, and duly verified by affidavit, as provided in Article 2266, is not just, and in such case the answer shall set forth the items and particulars which are unjust.

12. That the contract sued upon is usurious.

Sec. 2. The fact that the law in relation to pleadings of receivers is uncertain creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended and that this act take effect and be in force from and after its passage and it is so enacted.

[Note.—The foregoing act originated in the House and passed the same—vote not given; and passed the Senate by a vote of 23 yeas and 1 nay.]

Approved April 13, 1891.

OFFICIAL BONDS—SUITS ON.

Sec.

1. Sureties on more than one official bond may be joined as defendants in one suit, when.
2. Superior and subordinate officers and sureties on official bonds may be joined as defendants in one suit, when.

Sec.

3. Suit may be instituted in name of the State for benefit of all parties in interest.
4. Emergency clause.

CHAP. 67.—[H. B. No. 563.] An act authorizing principals and sureties on different official bonds to be joined as defendants in one and the same suits on official bonds to be instituted in the name of the State alone.

Section 1. Be it enacted by the Legislature of the State of Texas: That in any suit brought by the State of Texas or any county therein against any officer who has held such office for more than one term or who has given more than one official bond, the sureties on each and all such officer's official bonds may be joined as defendants in one and the same suit whenever it is alleged in the petition that it is difficult to determine when the default sued for occurred and which of the official bond therefor.

Sec. 2. That [in] any suit by the State of Texas upon the official bond of any state officer, any subordinate officer who has given bond payable either to the state or to such superior officer to cover the default sued for or any part thereof, together with the sureties on his official band, may be joined as defendants in one and the same suit with such superior officers and his bondsmen, whenever it is alleged in the petition that both of such officers are liable for the money sued for, to the end that all equities may be adjusted between them in one suit.

Sec. 3. Whenever any official bond is made payable to the State of Texas, or any officer thereof and a recovery thereon is authorized by or would inure to the benefit of parties other than the State, suit may be instituted on such bond in the name of the state alone for the benefit of all parties entitled to recover thereon.

Sec. 4. The fact that there is no law authorizing the suits herein provided for, and the fact that the enactment of such a law is of great importance, creates an imperative public necessity, that the rule requiring bills to be read on three several days in each house be suspended, and that this act take effect from and after its passage and it is so enacted.

[Note.—The foregoing act originated in the House and passed the same by a vote of 31 yeas and 2 nays; and passed the Senate by a vote of 22 yeas and 2 nays.]

Approved April 13, 1891.

INTEREST.

Sec.

1. Amends articles 2976, 2977 and 2980, R. S.

Article 2976. Six per cent. interest allowed on written contracts when none is agreed upon.

Article 2977. Six per cent. interest

Sec.

allowed on open accounts when none is agreed upon.

Article 2980. Six per cent. interest allowed on judgments in absence of agreed rate in the contract.

2. Emergency clause.

CHAP. 68.—[H. B. No. 64.] An Act to amend articles 2976, 2977 and 2980 of title 54 of the Revised civil Statutes of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas: That articles 2976, 2977 and 2980 be amended so as hereafter to read as follows:

Article 2976. On all written contracts ascertaining the sum payable, when no specified rate is agreed upon by the parties to the contract, interest shall be allowed at the rate of six per cent per annum from and after the time when the sum is due and payable.

Art. 2977. On open accounts, when no specified rate is agreed upon by the parties, interest shall be allowed at the rate of six per cent per annum from and after the time when such accounts were due and payable.

Art. 2980. All judgments hereafter obtained in the several courts of this state, shall bear interest at the rate of six per cent per annum from and after the date of the judgment, except when the contract upon which the judgment was founded bears a specified interest greater than six per cent per annum, and not exceeding the highest rate of conventional interest permitted by law, in which case, the judgment shall bear the same rate of interest specified in such contract and after the date of such judgment.

Sec. 2. Whereas, the near approach of the close of the session creates an emergency and there exists a public necessity for the suspension of the constitutional rule requiring bills to be read on three several days, and the same is so suspended.

Approved April 13, 1891.

STATE REVENUE AGENT.

Sec.

1. Appointment of State revenue agent; his duties.

2. Books and records of officers to be submitted to State revenue agent on demand; penalty for failure to comply with this act.

Sec.

3. Salary of revenue agent; traveling expenses; penalty for making false report.

4. Emergency clause.

CHAP. 69.—[S. B. No. 304.] An Act to authorize the Governor to appoint a State Revenue Agent and to prescribe his powers and duties, and affixing penalties for violations of this act.

Section 1. Be it enacted by the Legislature of the State of Texas: That the Governor be and he is hereby authorized to appoint a suitable person as Revenue Agent for the State, for the purpose of securing a better enforcement of the revenue laws of the state. The Agent provided for herein shall be known as the State Revenue Agent. Said Revenue Agent shall be subject to the directions of the Governor, who may, whenever in his judgment the public service demands it, direct the said Revenue Agent to investigate books and accounts of the assessing and collecting officers of this state, and all officers and persons disbursing, receiving or having in their possession public funds, and to make such other investigations and perform such other duties in the interest of the public reve-

nues as the Governor may direct. Whenever any such investigation is ordered by the Governor, the Revenue Agent shall report to him in writing the results of such investigations, and to point out the particulars, if any, wherein the revenue laws have been violated, their enforcement neglected, together with the names of the parties delinquent therein. Whereupon the Governor shall institute civil and criminal proceedings through the Attorney General in the name of the state against such delinquent parties who are reported by such agent to be delinquent. And it is further provided that said Revenue Agent shall have power at any time to examine and check up all and any disbursements or expenditures of money appropriated for any of the state institutions or for any other purpose or for improvements made by the state on state property or money received and disbursed by any board authorized by law to receive and disburse any state money.

Sec. 2. When said Revenue Agent acting under the direction of the Governor, calls on any person connected with the public service to inspect his accounts, records or books, said officers or official so called upon shall submit to said agent all books, records and accounts so called for without delay. And failure or refusal on the part of any officer or official to comply with the provisions of this section, shall be an offense, for which, on conviction thereof he shall be fined not less than one hundred dollars, nor more than one thousand dollars, and may be imprisoned in the county jail not more than one year.

Sec. 3. Said Revenue Agent shall receive as compensation for his services not exceeding two thousand dollars per annum, together with his actual traveling expenses, which shall be paid on the approval of the same by the Governor; provided said Revenue Agent shall not be allowed travelling expenses for any service connected with the examination and investigation of the accounts of any institution in Travis county. If the Revenue Agent herein provided for shall wilfully make a false or fraudulent report of the financial condition of the books of any officer or official department or institution, handling, receiving or disbursing any state funds appropriated or unappropriated, he shall be guilty of a misdemeanor, and on conviction thereof shall be fined not less than five hundred nor more than one thousand dollars and imprisoned in the county jail for any period not to exceed twelve months.

Sec. 4. The interest of the public to be protected by this act are of such importance as creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended and this act take effect from its passage, and it is so enacted.

[Note.—The foregoing act originated in the Senate and passed the same by a vote of 23 yeas and no nays; and passed the House—vote not given.]

Approved April 13, 1891.

JUDICIAL DISTRICTS—TWENTY-SIXTH AND FIFTY-THIRD.

Sec.

1. Counties composing Twenty-sixth district; terms of court.
2. Travis county to constitute Fifty-third district; terms of court.
3. The two courts in Travis county to have concurrent jurisdiction; judge of Fifty-third district shall not order grand jury drawn; exception.
4. Governor to appoint judge of Fifty-third district.

Sec.

5. Clerk of court; district attorney of Twenty-sixth district to represent State in Fifty-third district.
6. Transfer of causes by the judges.
7. When petit juries shall be drawn.
8. Repealing clause; proviso as to first term of court.
9. Emergency clause.

CHAP. 70.—[H. B. No. 634.] An Act to amend an act entitled an act to amend section 26, chapter 20 of the extra session of the Eighteenth Legislature approved February 6th, 1884, being an act to redistrict the State of Texas into judicial districts and to fix the times of holding courts therein, and to provide for the election of judges and district attorneys in said districts approved March 5, 1889, and to create the fifty-third judicial district, and to fix the time of holding courts therein and to provide for the appointment of a district judge for said fifty-third district.

Section 1. Be it enacted by the Legislature of the State of Texas: That section one of said act, approved March 5, 1889, be so amended as to hereafter read as follows:

Section 26. The twenty-sixth judicial district shall be composed of the counties of Williamson and Travis, and the terms of the district court shall be held therein hereafter as follows:

In the county of Williamson on the first Mondays in January and July, in each year, and may continue in session six weeks.

In the county of Travis on the first Monday in March of each year and may continue in session until the last Saturday before the first Monday in May.

On the first Monday in May of each year, and may continue in session until the last Saturday in June.

On the first Monday in October in each year and may continue in session until the last Saturday before the 25th day of December; provided that a grand jury for Travis county shall not be drawn except for the May and October terms of said court, unless the district judge should deem it necessary to call a grand jury at other terms and should so order.

Sec. 2. The county of Travis shall constitute the fifty-third judicial district, and the district court shall be held therein as follows: On the first Mondays in January, April, September and November in each year and may continue in session until the business is disposed of; provided the April term shall not continue longer than the last Saturday in June, and the November term longer than the last Saturday before the 25th day of December.

Sec. 3. That the two said district courts aforesaid in Travis county shall have concurrent jurisdiction with each other throughout the limits of Travis county of all matters civil and criminal of which jurisdiction is given to the district court by the constitution and the laws of the State of Texas; provided that the district judge of the fifty-third judicial district shall not order drawn or selected a grand jury unless in his judgment he thinks it necessary.

Sec. 4. Immediately after this act takes effect the Governor shall appoint some suitable person as judge of the 53d judicial district, who shall hold said office until the next general election for state and county officers, and until the election and qualification of his successor in office.

Sec. 5. The clerk of the district court of Travis county as heretofore constituted, and his successors in office shall be the clerk of both of said district courts in Travis county, and shall perform all the duties pertain-

ing to both of said courts, and the district attorney of the 26th judicial district shall also represent the state in all criminal cases in the 53d judicial district.

Sec. 6. That either of the judges of said district courts in Travis county, may in their discretion transfer any cause or causes civil or criminal, that may at any time be pending in his court, to the other district court in Travis county, by order or orders entered upon the minutes of his court, and where such transfer or transfers are made the clerk of the district court of Travis county shall enter such cause or causes upon the docket of the court to which such transfer or transfers are made, and when so entered upon the docket, the judge of said court shall try and dispose of said causes in the same manner as if such causes were originally instituted in said court.

Sec. 7. That no petit juries shall be drawn for the March, April, and November terms of said courts respectively in Travis county, unless the respective judges of said courts shall deem the same necessary.

Sec. 8. That all laws and parts of laws in conflict with this act are hereby repealed, provided that if this act goes into effect as soon as signed by the Governor, then the first term of the district court of the fifty-third district may begin on the first Monday in May, A. D. 1891, but thereafter the terms of said court shall begin and be held as hereinbefore stated.

Sec. 9. The crowded condition of the docket of the district court of Travis county and the necessity for two district courts in said county, creates an imperative public necessity and emergency that requires that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act originated in the House and passed the same by two-thirds vote, ayes 71 noes 10; and passed the Senate by two-thirds vote, ayes 21 noes 2.]

Approved April 13, 1891.

BIRDS—PROTECTION OF.

- Sec. 1. Killing of certain birds and destruction of their eggs prohibited; penalty; exceptions.
2. Emergency clause.

CHAP. 71.—[H. B. No. 574.] An Act for the protection of certain birds and their eggs, and prescribing penalties for violation of this act.

Section 1. Be it enacted by the Legislature of the State of Texas: That if any person shall wilfully kill any seagull, tern, shearwater, egret, heron or pelican, or shall wilfully take from their nests or in any manner destroy any egg or eggs of any seagull, tern, shearwater, egret, heron or pelican, he shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not less than five nor more than twenty-five dollars; provided, that the killing of any of the birds above enumerated or taking of their eggs with the intent to preserve the same for scientific purposes shall not be construed to be a violation of this act.

Sec. 2. The fact that many persons are engaged in killing the birds enumerated in section 1 for their plumage, and the near approach of the breeding season of said birds creates an emergency and an imperative public necessity that the constitutional rule requiring that bills be read

on three several days be suspended and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act originated in the House, and passed the same by a vote of 79 yeas and 6 nays; and passed the Senate by a vote of 22 yeas and 2 nays.]
Approved April 13, 1891.

COUNTY ATTORNEYS.

Sec.	Sec.
1. Amends chapter 2, title 11, R. S., by adding article 245a.	ment of assistant county attorneys.
Article 245a. Provides for appoint-	2. Emergency clause.

CHAP. 72.—[S. B. No. 367.] An Act to amend chapter 2, title 11, of the Revised Civil Statutes of the State of Texas, relating to county attorneys, by adding thereto article 245a.

Section 1. Be it enacted by the Legislature of the State of Texas: That chapter 2, title 11, of the Revised Civil Statutes of the State of Texas be amended by adding thereto article 245a, as follows:

Article 245a. County attorneys shall have power, by consent of the commissioners court, to appoint in writing, one or more assistants, not to exceed three, for their respective counties, to continue in office during the pleasure of their principals, and who shall have the power and authority to perform all the acts and duties of their principals, and who shall have the qualifications prescribed by law for county attorneys; and every person so appointed shall, before he enters upon the duties of his office take and subscribe the oath of office prescribed by the constitution which shall be endorsed upon his appointment together with the certificate of the officer administering the same, and such appointments and oath shall be recorded in the office of the county clerk, and deposited in said office.

Sec. 2. Whereas, there is now no law in force in this State authorizing county attorneys to appoint assistants, and by reason thereof the State is frequently not represented in prosecutions of importance before the courts and grand juries. Therefore an imperative public necessity and emergency exists requiring that the constitutional rule which requires bills to be read on three several days be, and the same is hereby suspended, and this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act originated in the Senate and passed the same by a vote of 22 yeas and 1 nay; and passed the House by a vote of 69 yeas and 14 nays.]

Approved April 13, 1891.

COUNTY FINANCES.

Sec.	Sec.
1. Amends article 259, title 8, chapter 6, Penal Code.	failing to make tabular statement, etc.; penalty.
Article 259. Commissioners court	2. Emergency clause.

CHAP. 73.—[H. B. No. 38.] An Act to amend article 259, title 8, chapter 6, of the Penal Code.

Section 1. Be it enacted by the Legislature of the State of Texas: That article 259, title 8, of chapter 6, of the Penal Code, be so amended as to read as follows:

Article 259. If the Commissioners court of any county in this State shall wilfully fail, neglect or refuse to make, or cause to be made a tabular statement of the assets, expenditures and indebtedness of such county at each regular term of the said court, specifying therein the names of creditors and the items of indebtedness, with their respective dates of accrual and also the names of persons to whom moneys have been paid, with the amounts paid each during the quarter for which such statement is prepared, or shall wilfully fail, neglect or refuse to publish an exhibit showing the aggregate receipts and disbursements of each separate fund for the quarter in some newspaper published in the county (or if there be no newspaper, then by posting such exhibit in at least four public places in the county,) immediately after the first regular term in each calendar year, or shall wilfully fail, neglect or refuse to post such exhibit made at the third regular meeting of said court in each calendar year at the court house door, and at least three other public places in the county, the members of the court so failing, neglecting or refusing, shall be fined in any sum not less than twenty nor more than one hundred dollars.

Sec. 2. The near approach of the close of the present session of the Legislature creates an emergency requiring the suspension of the constitutional rule requiring bills to be read on three several days, and said rule is hereby suspended, and this act take effect from and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act originated in the House and passed the same—vote not given; and passed the Senate by a vote of 21 yeas and 3 nays.]

Approved April 13, 1891.

JUDICIAL DISTRICT—HUTCHINSON COUNTY.

Sec.

1. Hutchinson county attached to Roberts county for judicial purposes.

Sec.

2. Repealing clause.
3. Emergency clause.

CHAP. 74.—[H. B. No. 621.] An act to attach Hutchinson county to Roberts county for judicial purposes.

Section 1. Be it enacted by the Legislature of the State of Texas: That the unorganized county of Hutchinson be and the same is hereby attached to Roberts county for judicial purposes.

Sec. 2. That all laws and parts of laws in conflict with this act be and the same are hereby repealed.

Sec. 3. The near approach of the close of the session of the Legislature and the great number of bills to be disposed of, and the convenience of the people of Hutchinson county demand that this act should take immediate effect, therefore an imperative public necessity and an emergency exists requiring the constitutional rule requiring bills to be read on three several days in each house be suspended, said rule is therefore suspended and that this act take effect from and after its passage and it is so enacted.

[Note.—The foregoing act originated in the House and passed the same—vote not given; and passed the Senate by a vote of 22 yeas and no nays.]

Approved April 13, 1891.

McCULLOCH COUNTY—JURISDICTION OF COUNTY COURT RESTORED.

Sec.

1. Defines original and concurrent jurisdiction of county court in civil cases.
2. Defines appellate jurisdiction of county court.
3. County judge has power to issue writs of mandamus, etc.
4. Forfeiture of bonds and recognizances in criminal cases.

Sec.

5. Jurisdiction of misdemeanor cases; exceptions.
6. Conforms jurisdiction of district court to the change herein made; clerk to make transcripts of dockets; docketing causes.
7. Terms of county court; process.
8. Repealing clause.
9. Emergency clause.

CHAP. 75.—[H. B. No. 642.] An act to restore and confer upon the County court of McCulloch county the civil and criminal jurisdiction heretofore belonging to said court under the constitution and general statutes of the State, to conform the jurisdiction of the District court to such change and to repeal all laws in conflict with the provisions of this act.

Section 1. Be it enacted by the Legislature of the State of Texas: That the County court of McCulloch county shall hereafter have exclusive original jurisdiction in civil cases when the matter in controversy shall exceed in value two hundred dollars and shall not exceed five hundred dollars exclusive of interest, and shall have concurrent jurisdiction with the District Court of said county, when the matter in controversy shall exceed five hundred dollars and not less than one thousand dollars.

Sec. 2. Said County court shall have appellate jurisdiction in civil cases over which the Justices Courts have original jurisdiction when the judgment of the court appealed from or the amount in controversy shall exceed twenty dollars; and said County court shall have power to hear and determine cases brought up from the Justices courts by certiorari under the provisions of the title of the Revised Civil Statutes relating thereto.

Sec. 3. The County Judge of said county shall have authority either in term time or vacation to grant writs of mandamus, injunction, sequestration, attachment, garnishment, certiorari and supersedeas, and all other writs necessary to the enforcement of the jurisdiction of said courts, and shall also have power to issue writs of habeas corpus in all cases in which the constitution has not conferred the power on the District court or Judge thereof.

Sec. 4. Said County court shall have jurisdiction in the forfeiture and judgment of all bonds and recognizances taken in criminal cases, of which criminal cases said courts have jurisdiction.

Sec. 5. Said County court shall have exclusive original jurisdiction of all misdemeanors, except misdemeanors involving official misconduct, and except cases in which the highest penalty of fine that may be imposed under the law may not exceed two hundred dollars; and said Courts shall also have appellate jurisdiction in criminal cases of which Justices of the peace and other inferior tribunals of said county have original jurisdiction.

Sec. 6. The District court of said county of McCulloch shall no longer have jurisdiction of cases of which the County court of said county by the provisions of this act has exclusive original or appellate jurisdiction; and it shall be the duty of the District Clerk of said county within thirty days after the passage of this act to make a full and complete transcript of all orders on his docket in cases now pending before said District Court, of which cases, by the terms of this act, exclusive jurisdiction is given the County court, and to deliver said transcript together with the original papers and a certified bill of costs in each case to the Clerk of the said County court herein named, and said County Clerk shall enter said cases on his docket for trial by said County court.

Sec. 7. The County court of said county shall hereafter hold its reg-

ular terms for civil and criminal business as provided in the constitution and general laws of the state; and all process heretofore issued from the District court of said county in cases to be transferred under this act to the County court shall be returnable to the first term of the County court, and all civil cases so transferred shall be entered as appearance cases upon the docket of said County court.

Sec. 8. All laws in conflict with the provisions of this act are hereby repealed.

Sec. 9. The crowded condition of the docket of the District court creates an emergency and an imperative public necessity that the rule requiring bills to be read on three several days be suspended and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act originated in the House, and passed the same by a vote of 79 yeas, no nays; and passed the Senate by a vote of 24 yeas.]

Approved April 13, 1891.

APPEARANCE DAY—PROCESS AND RETURN.

Sec.

1. Amends articles 1228, 1229 and 1280.

R. 8.

Article 1228. Time of service of citation.

Article 1229. Service of citation had

Sec.

less than ten days before return day, good for succeeding term.

Article 1280. Second day is appearance day.

2. Emergency clause.

[CHAP. 76.—[S. H. B. No. 79.] An act to amend articles 1228, 1229 and 1280 of the Revised Civil Statutes of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas: That articles 1228, 1229 and 1280 of the Revised Civil Statutes of the State of Texas, be so amended as to read hereafter as follows:

Article 1228. The citation shall be served before the return day thereof, and in order to compel the defendant to plead at the return term of the court, the citation must be served at least ten days before the first day of such return term exclusive of the days of service and return.

Article 1229. If the citation be issued too late, or if it can not be served at least ten days before the first day of such return term, exclusive of the days of service and return, the officer to whom it is delivered shall nevertheless proceed to serve the same at any time before the return day thereof, and such service shall compel the defendant to plead at the next succeeding term of the court.

Article 1280. The second day of each term of the District or County court is termed appearance day.

Sec. 2. The fact that the Legislature has before it for consideration a large number of bills of importance creates an emergency and an imperative public necessity requiring the suspension of the constitutional rule requiring bills to be read on three several days, and said rule is hereby suspended.

Approved April 13, 1891.

TOWNS AND VILLAGES.

Sec.

1. Amends article 541, title 17, R. S.
Article 541. Proceedings when corporation is abolished or de facto corporation declared void.

Sec.

2. Commissioners court to appoint tax collector; his duty, bond, term of office.
3. Emergency clause.

CHAP. 77.—[H. B. No. 57.] An act to be entitled an act to amend article 541, chapter 11, title 17, of the Revised Civil Statutes of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas: That article 541, chapter 11, title 17 of the Revised Civil Statutes of the State of Texas be so amended as to hereafter read as follows:

Article 541. When any corporation is abolished as provided in the preceding article, or if any de facto corporation shall be declared void by any court of competent jurisdiction or if the same shall cease to operate and exercise the functions of such de facto corporation, all the property belonging thereto shall be turned over to the County Treasurer of the county, and the Commissioners court of the county shall provide for the sale and disposition of the same and for the settlement of the debts due by the corporation, and for this purpose shall have power to levy and collect a tax from the inhabitants of said town or village, in the same manner as the said corporation would be entitled to under the provisions of this chapter. Provided, that when any town or city shall reincorporate under chapters 1 or 11 of title 17, of the Revised Civil Statutes, upon a majority of the legal voters tax paying property holders of said town or city, all property, real and personal, of the old or de facto corporation shall be vested in the new one; and provided further, that the new corporation shall assume all the legal indebtedness, contracts and obligations of the old corporation; provided, where cities and towns have reincorporated under chapters 1 or 11 of title 17 of the Revised Civil Statutes, prior to the adoption of this act, upon a majority vote of the tax paying property owners of said city or town, all property, real or personal, of the old or de facto corporation shall be vested in the new one; and provided further that the new corporation shall assume all the legal indebtedness, contracts and obligations of the old corporation.

Sec. 2. In all cases where the Commissioners court shall be vested with authority conferred on them by this act, it shall be the duty of such court to appoint a suitable person to perform the duty of Tax Collector, whose duty it shall be to collect the taxes within the territory comprised in the dissolved corporation, until such legal indebtedness of such corporation has been paid off or until such city or town has been reincorporated, and shall fix his bond in sufficient penalties to protect any fund collected. Provided, that such appointee may be removed at any time for carelessness or insufficiency or other good cause.

Sec. 3. There being no provisions by which new corporations can be vested with the property and assume the indebtedness of the old corporation, an emergency exists and an imperative public necessity demands the suspension of the rule requiring bills to be read on three several days be suspended, and it is so suspended and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act originated in the House and passed the same by a vote of 85 yeas and 1 nay; and passed the Senate—vote not given.]

Approved April 13, 1891.

MARRIAGE—CELEBRATION OF.

- Sec. 1. Amends article 2838, R. S., as to persons authorized to celebrate the rites of matrimony.
 2. Emergency clause.

CHAP. 78.—[S. B. No. 331.] An act to amend title 50, article 2838 of the Revised Civil Statutes of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas: That title 50, article 2838 of the Revised Civil Statutes of the State of Texas be amended so as hereafter to read as follows:

Article 2838. All regular licensed or ordained ministers of the Gospel, Jewish rabbis, Judges of the District and County courts, and all Justices of the peace of the several counties are authorized to celebrate the rites of matrimony between all persons legally authorized to marry.

Sec. 2. The near approach of the close of the session of the Legislature creates an imperative public necessity that the constitutional rule requiring bills to be read on three several days, be suspended and that this act take effect from and after its passage, and it is so enacted.

[Note.—The foregoing act originated in the Senate and passed the same by a vote of 25 yeas and no nays; and passed the House by a vote of 80 yeas and 4 nays.]

Approved April 13, 1891.

RAPE.

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| Sec. | Sec. |
| 1. Amends article 528, chapter 7, title 15, Penal Code, as amended by Act of February 25, 1887. | Article 528. "Rape" defined.
2. Emergency clause. |

CHAP. 79.—[H. B. No. 90.] An act to amend article 528, chapter 7, title 15 of the Penal Code of the State of Texas as amended by the act of the twentieth Legislature approved February 25th, 1887.

Section 1. Be it enacted by the Legislature of the State of Texas: That article 528, chapter 7, title 15 of the Penal Code of the State of Texas, as amended by an act of the twentieth Legislature approved February 25th, 1887, be so amended as to hereafter read as follows:

Article 528. Rape is the carnal knowledge of a woman, without her consent, obtained by force, threats or fraud, or the carnal knowledge of a female under the age of twelve years, with or without consent, and with or without the use of force, threats or fraud, or the carnal knowledge of a woman other than the wife of the person having such carnal knowledge, with or without consent and with or without force, threats or fraud, such woman being so mentally diseased at the time as to have no will to oppose the act of carnal knowledge, the person having carnal knowledge of her knowing her to be so mentally diseased.

Sec. 2. The near approach of the close of the session, creates an emergency that the constitutional rule requiring all bills to be read on three several days be suspended and said rule is hereby suspended.

Approved April 13, 1891.

PUBLIC EDUCATION.

Sec.

1. Amends chapter 3, title 78, R. S., and Sec. 43 of act passed by Eighteenth Legislature as to public free schools.

Section 43. County judge or county

Sec.

superintendent to have supervision of public education in his county; his duties.

44. [2] Emergency clause.

CHAP. 80.—[H. B. No. 612.] An Act to amend an act entitled an act to establish and maintain a system of public free schools for the State of Texas, and to repeal so much of chapter 3, of title 78, of the Revised Civil Statutes of Texas, as refer to public free schools outside of incorporated cities and towns assuming or having assumed control of their public free schools, and all laws and parts of laws in conflict with this act passed by the 18th Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas: That section 43 of the above entitled act be so amended as to read as follows:

Section 43. The County Judge or County Superintendent if there be one, shall have under the direction of the State Superintendent the immediate supervision of all matters pertaining to public education in his county. He shall confer with and counsel teachers and trustees, visit and examine schools, deliver lectures on topics calculated to excite an interest in public education, or secure some one to do so. He shall organize and hold teachers institutes, and shall approve all vouchers against the school fund of his county. He shall examine all contracts between teachers and trustees in both district and community counties, and if in his judgment, such contracts are proper, he shall approve the same. He shall discharge such other duties as may be prescribed by the State Superintendent. He shall distribute all school blanks and books to the officers and teachers of the public schools. He shall make such annual reports to the State Superintendent as may be required by that officer; provided that in considering whether he will approve a contract between a teacher and trustees, he shall be authorized to consider the amount of salary promised the teacher.

Section 44. The fact that the near approach of the end of the session, renders it improbable that this bill can be considered in three several days And the fact that it is desired and proper that this bill should go into effect at once, creates an emergency and an imperative public necessity for the suspension of the constitutional rule requiring bills to be read on three several days, and that this act take effect from and after its passage and it is so enacted.

[Note.—The foregoing act originated in the House and passed the same by a vote of 81 yeas and 2 nays; and passed the Senate by a vote of 24 yeas and no nays.]

Approved April 15, 1891.

PUBLIC EDUCATION.

Sec.

1. Amends sections 45 and 46, chapter 132, acts of regular session Twentieth Legislature.
- (45.) Compensation of county judge as ex officio superintendent, how and when payable.

Sec.

- (46.) Superintendent to apportion fund to the several school districts; accounts.
2. Emergency clause.

CHAP. 81.—[S. B. No. 160.] An Act to amend section 45 and 46, chapter 132, of the acts of the regular session of the twentieth Legislature entitled an act to establish and maintain a system of public free schools for the State of Texas, and to repeal so much of chapter 3 of title 78 of the Revised Civil Statutes of the State of Texas, as refer to public free schools outside of incorporated cities and towns assuming or having assumed control of their public free schools, and all laws and parts of laws in conflict with this act.

Section 1. Be it enacted by the Legislature of the State of Texas: That section 45, chapter 132 of the acts of the regular session of the twentieth Legislature entitled an act to establish and maintain a system of public free schools for the State of Texas, and to repeal so much of chapter 3 of title 78 of the Revised Civil Statutes of the State of Texas as refers to public free schools outside of incorporated cities and towns assuming or having assumed control of their public free schools, be so amended as to hereafter read as follows:

Section 45. The County Judge who serves as ex-officio county Superintendent of public instruction, shall be entitled to the following compensation: For five hundred dollars or less of the school fund actually disbursed by the county Treasurer annually, twenty-five dollars shall be allowed such judge; for five-hundred dollars and not exceeding one thousand dollars so disbursed annually, fifty dollars shall be allowed, and for each additional thousand or fractional part thereof so disbursed annually, ten dollars shall be allowed such Judge, and ten per cent on the salary thus allowed shall be added for postage, stationary and printing expenses connected with the administration of the school law. Such compensation shall be paid to the County Judge by the County Treasurer out of the public school fund of the county upon the approval of his voucher by the Commissioners court on the second Monday in November of each year, provided such Judge or County Superintendent shall have made to the State Superintendent of public instruction all reports required of him by law, in respect to any matters appertaining to public free schools of his county. And the Commissioners court shall not approve nor shall the County Treasurer pay the voucher of any County Judge or County Superintendent for his compensation herein mentioned until such Judge or County Superintendent shall exhibit to said court and Treasurer an acknowledgement of the receipt by such State Superintendent of such reports which receipt shall show the amount of compensation due the County Judge or County Superintendent as herein provided, and it shall be unlawful for the Commissioners court to approve any voucher, or the County Treasurer to pay any voucher in excess of the amount certified by the said State Superintendent of public instruction as due said County Judge or County Superintendent.

Section 46. The County Superintendent or County Judge upon the receipt of the certificate issued by the board of education for the State fund belonging to his county shall apportion the same to the several school districts and communities (not including the independent school districts of the county) making a pro rata distribution as per the scholastic census, and shall at the same time apportion the income arising from the

county school fund to all the school districts and communities including the independent school districts of the county, making a pro rata distribution as per scholastic census. It shall be the duty of the County Superintendent or County Judge upon receiving notice from the County Treasurer of the amount of school fund set apart for that month, to immediately apportion the same to all of the districts and communities of the county according to the scholastic census of each. It shall also be his duty to keep an account with each district, and he shall in no case approve any voucher drawn against the school fund of a district unless there be sufficient funds in the hands of the Treasurer to the credit of said district to pay the same.

Sec. 2. Whereas there are so many bills before the present Legislature, that the subject of legislation contemplated by this bill may not be enacted at this session of the Legislature, therefore an emergency exists requiring the constitutional rule for bills to be read on three several days be suspended and said rule is hereby suspended.

Approved April 15, 1891.

PENITENTIARIES.

Sec.

1. Amends act of March 17, 1881, and March 31, 1885.

(1.) Provides for appointment of penitentiary board; their qualification, term, of office; record of proceedings, secretary, salary.

(2.) Duty of penitentiary board.

(3.) System of labor; board shall not lease penitentiary; State to have right to control convicts at all times.

(4.) Board to provide for transportation for convicts; contracts for transportation by private parties; bond.

(5.) Power to condemn old and useless property; sale and exchange of property; approval of conveyance; title to land purchased made to the Governor.

(6.) Biennial inventory and appraisal of property required.

(51.) Treatment of convicts; rewards; commutation of time.

(61.) Salary of superintendent.

(62.) Salary of assistant superintendent.

(64.) Salary of physicians.

(65.) Salary of chaplain.

(68.) Appointment of financial agent, his term of office.

(69.) Bond of financial agent, his salary; place of office.

Sec.

(70.) Duty of financial agent.

(71.) Agent to make monthly statement of receipts and disbursements.

(72.) Agent shall keep account of convict hire and receipt for money due.

(73.) Agent purchaser of building and manufacturing material, supplies, etc., shall pay salaries of officers, etc.

(74.) The keeping of accounts by financial agent.

(75.) Accounts of each industry and department of the penitentiary.

(76.) Custody of property, supplies, etc.

(77.) Competition in purchase of supplies; etc.

(78.) Agent and superintendent to make contracts for hire of convict labor; clerical help for agent.

(79.) Shall furnish biennial abstracts of receipts, disbursements, etc.

(80.) Suits for money and property belonging to the penitentiaries to be brought in name of the financial agent.

(82.) Bonds of superintendent and assistant superintendent and sergeants required.

(83.) Repealing clause.

(84.) Emergency clause.

CHAP. 82.—[S. B. No. 194.] An Act to amend sections 1, 2, 3, 4, 5, 6, 51, 61, 62, 64, 65, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 82, 83, 84, of an act entitled "an act to provide for the organization of the State penitentiaries, and for the more efficient management of the same," approved March 17, 1881, also to repeal an act entitled, "an act to provide for the more efficient management of the Texas State Penitentiaries and to make an appropriation therefor," approved April 18, 1883, also to repeal an act entitled "an act to amend sections 1, 2 and 4 of an act entitled "an act to provide for the more efficient management of the Texas State Penitentiaries and to make an appropriation therefor," approved April 18, 1883, approved March 31, 1885.

Section 1. Be it enacted by the Legislature of the State of Texas: That sections 1, 2, 3, 4, 5, 6, 51, 61, 62, 64, 65, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 82, 83, 84 of an act entitled, "an act to provide for the organization of the State Penitentiaries and for the more efficient management of the same," approved March 17, 1881, be so amended to hereafter read as follows:

Section 1. Be it enacted by the Legislature of the State of Texas: That the Governor shall appoint by and with the advice and consent of the senate, a penitentiary board to consist of three Commissioners, citizens of this State, and good, practical business men, who shall hold their office for two years until the appointment and qualification of their successors, and in case of vacancy in the same to be filled by executive appointment for the unexpired term. Two members of said board shall constitute a quorum for the transaction of business, and its proceedings shall be subject to the approval of the Governor, and shall be entered of record and kept in a well bound book. It may appoint a secretary to keep a record of its proceedings to receive such remuneration as the board may determine, provided the Legislature does not otherwise provide. The members of said board shall each receive six dollars per day and actual traveling expenses while in performance of official duties.

Section 2. The said board shall have the general management and control of the State penitentiaries and of all convicts sentenced to said penitentiaries whether within or without the walls thereof. It shall make or approve all contracts for the building of any new penitentiary, and for any additions, repairs and improvements necessary to be made in connection with the penitentiary or convict system of this state, on the terms prescribed by law, or in the absence thereof, on such terms as it may consider for the best interests of the state. It shall have power to purchase or cause to be purchased, with such funds as may be at its disposal, not otherwise appropriated, any lands, buildings, machinery and tools necessary for the use, preservation and operation of the penitentiaries to the end that the largest number of convicts that can be comfortably accommodated and made self supporting may be confined therein; and until adequate provisions be made by the Legislature for the confinement and employment of all convicts who may be profitably utilized within the walls; and said board may erect and operate for the state in each of the penitentiaries a factory for the manufacture of cotton goods, cotton and jute bagging. Provided that in the judgment of the penitentiary board it shall be deemed practicable and can be done without loss to the State; the said board may employ the excess of convicts at labor outside the walls, either under the contract system or state account system under such regulations, conditions and restrictions as it may deem best for the welfare of the state and the convicts; and said board shall, when it has means at its disposal which can be so used, from time to time purchase or lease and equip a farm or farms upon which convicts, suitable for farm labor who can not be made self supporting inside the walls, shall be worked on state account. The said board shall have power to contract with railroad corporations or other common carriers for transportation facilities for said Texas institutions and to exchange for such facilities labor of state convicts or the product of the manufactories of said institutions upon such terms, prices and rates as it may deem for the best interests of the state, and the Financial Agent of the penitentiaries shall honor and pay any draft or drafts drawn on him by said penitentiary board drawn for this purpose, when he has any surplus funds in his hands or at his disposal belonging to said penitentiaries. But no such farm or farms shall ever be purchased by said board except it be upon the advice, consent and direction of the Governor. And said board shall, as soon as practicable, place all state convicts either inside the walls of the penitentiaries or on farms and work the same on state account.

Section 3. The system of labor in the state penitentiaries shall be the state account system or contract system or partly one and partly the other, as shall in the discretion of the penitentiary board and the Governor be deemed for the best interests of the State; but no contract shall be let for any of such convict labor if equally remunerative employment can be furnished by the State and worked on state account. The said board shall not make nor approve any contract for the lease of the penitentiaries or either of them, nor shall any contract ever be made by which the control of the convicts except as to a reasonable amount of labor, shall pass from the state or its officers and the State shall never be deprived of the right to direct how, at any and all times and under all circumstances, its convicts shall be lodged, fed, clothed, quartered, worked and treated, and the management and discipline of convicts shall in all cases remain under control of the state, and officers employed and paid by the state.

Section 4. It shall be the duty of said penitentiary board to make suitable provision and regulations for the safe and speedy transportation of convicts from the counties where sentenced to the penitentiaries, or to the State reformatory, or state convict farm or farms as the case may be, either by contract with private parties for the transportation of such convicts or by transporting said convicts on state account by the state. And should said board contract to have said convicts transported by private parties, it shall cause said contractors to give a good and sufficient bond in such an amount as said board may deem proper, payable to the State of Texas and to be approved by said board and the Governor, conditioned upon the faithful performance of their duty under said contract, and under such rules and regulations as may be prescribed by said board or may now or hereafter be prescribed by law.

Section 5. The board shall have the power to condemn useless or worn out property of any description in or about the penitentiaries or belonging thereto, and cause the same to be destroyed or sold, and it also shall have the power to sell or exchange any land or other property belonging to the state for the use of the penitentiaries, or either of them when the State's interest will be benefited thereby; and any conveyance it shall make shall be binding and valid when approved by the Governor and Attorney General. The title to land purchased by said board shall be made to the Governor and his successors in office for the use of the penitentiaries, and the same shall be passed upon and approved by the Attorney General.

Section 6. The board shall cause to be made biennially, a full and complete inventory and valuation of all lands, buildings, machinery, tools, live stock and property of every description belonging to the penitentiaries and penitentiary system, which inventory and appraisement shall be made just previous to the date of the biennial report and a full synopsis thereof shall be contained in the biennial report of the Financial Agent.

Section 51. The convicts shall all be treated with humanity, but a distinction may be made in their treatment so as to extend to all such as are orderly, industrious and obedient, comforts and privileges according to their deserts. The rewards to be bestowed on convicts for good conduct shall consist of a relaxation of strict prison rules, and extension of social privileges as may not be inconsistent with proper discipline. Commutation of time for good conduct shall be granted by the Superintendent of the penitentiaries, and the following deductions shall be made from the term or terms of sentence when no charges of misconduct have

been sustained against a convict, viz: Two days per month off the first year of sentence. Three days per month off the second year of sentence. Four days per month off the third year of sentence. Five days per month off the fourth year of sentence. Six days per month off the fifth year of sentence. Seven days per month off the sixth year of sentence. Eight days per month off the seventh year of sentence. Nine days per month off the eighth year of sentence. Ten days per month off the ninth year of sentence. Fifteen days per month off the tenth year and all succeeding years of sentence. A convict under two or more cumulative sentences shall be allowed commutation as if they were all one sentence. For each sustained charge of misconduct in any year of the term the commutation allowed for one month of such year may be forfeited, and for any sustained charge of escape or attempt to escape, mutinous conduct or other serious misconduct all the commutation which shall have accrued in favor of the convict up to that date shall be forfeited, unless in case of escape the convict voluntarily returns to prison without expense to the state, such forfeiture may be set aside. For extra meritorious conduct on the part of any convict he shall be recommended to the favorable consideration of the Governor for increased commutation or pardon. Life, or long term convicts, who, having actually served fifteen years without any sustained charge of misconduct, and who shall be favorably recommended to the Governor by the Superintendent and Assistant Superintendent of penitentiaries, and the penitentiary board, may receive at the hands of the Governor a reasonable commutation of sentence, and if a life sentence is commuted to a term of years, then such convict shall have the benefit of the ordinary commutation as if originally sentenced for a term of years, except the Governor should otherwise direct.

Section 61. Salaries of Penitentiary Officers: The Superintendent of penitentiaries shall receive an annual salary of twenty-five hundred dollars (\$2500) and actual traveling expenses when on official duty.

Section 62. The Assistant Superintendent shall receive an annual salary of seventeen hundred dollars and actual traveling expenses when on official business.

Section 64. The Physicians of the penitentiaries shall receive an annual salary of one thousand dollars.

Section 65. The Chaplain shall receive an annual salary of six hundred dollars.

Section 68. The Governor shall appoint, with the advice and consent of the senate, a Financial Agent of the penitentiaries, who shall hold his office for two years and until the appointment and qualification of his successor, and in case of a vacancy in said office the same shall be filled by executive appointment for the unexpired term.

Section 69. Before entering upon the discharge of his official duties, the Financial Agent shall give bond in the sum of seventy five thousand dollars with two or more good and sufficient sureties, payable to the Governor and his successors in office, conditioned upon the faithful performance of his duties of his office, the same to be approved by the penitentiary board and the Governor, and filed in the office of the Secretary of State. The said Financial Agent shall receive for his services the sum of three thousand dollars per annum and actual necessary traveling expenses in the discharge of his official duties. He shall keep his office at such place as may be directed by the penitentiary board.

Section 70. The Financial Agent shall be the purchasing, selling and

disbursing agent of the penitentiaries. He shall receive all moneys, the proceeds of convict labor from sales of manufactured goods, crops or other property belonging to the penitentiaries. And in such capacity shall, with the approval of the penitentiary board, have the power and authority to buy and sell for account of the penitentiaries for cash or upon a credit, as his judgment may approve and as may be to the best interests of said penitentiaries. He shall from time to time receive all moneys appropriated for the use of penitentiaries or either of them, and on his requisition, approved by the penitentiary board, the Comptroller of Public Accounts is authorized to draw his warrant in favor of the said Financial Agent on the State Treasurer for the same. Provided the said Financial Agent shall at no time retain in his possession nor on deposit outside of the State Treasury any sum of money greater than one half of his official bond.

Section 71. He shall furnish monthly, an itemized statement of all the receipts from whatever source, and of all disbursements on account of the penitentiary management, accompanied by abstracts, cash statements, invoices, receipted vouchers, and such other data as may be required and necessary to make a full clear and correct showing of penitentiary finances at the end of each month for which made, which said statement, after being examined and approved by the Superintendent of penitentiaries, and then by the penitentiary board, shall be filed together with the abstracts, invoices and receipted vouchers, with the Comptroller of Public Accounts, for his examination, approval and entry.

Section 72. He shall keep correct and accurate accounts with all parties hiring convict labor either inside or outside of the walls of the penitentiary, and shall collect and receipt for all sums of money due on account of sales of goods manufactured, hire of convict labor or for work performed by convicts either inside or outside of the walls of the penitentiaries.

Section 73. He shall purchase and pay for all such material as may be necessary for building or manufacturing purposes, and all supplies of provisions, clothing, bedding, shoes, medicines, and all other articles required by the rules and regulations of the penitentiaries, for the use of the prison officials, employes, sergeants, guards, and convicts, and when not otherwise provided by law, he shall pay the monthly salaries of all the penitentiary officers, employes, sergeants, and guards and shall pay all accounts for services rendered and purchases made for the use of said penitentiaries or either of them.

Section 74. He shall keep an account of each and every article sold, with price for which same was sold: also an account specifying the amounts of money received by him and from whom, and on what account together with an account of his disbursements of the same; all of which shall be by him entered in well bound books, which he shall keep subject to the inspection of the penitentiary board or the Superintendent of penitentiaries or either of them, or any citizen of this state.

Section 75. He shall take such measures as are necessary to keep a debit and credit account with each separate industry carried on at each penitentiary, debiting each industry with salary of foreman, with labor and material used, and crediting it with the work turned out. An account shall also be kept for every department of the prisons, whether productive or non-productive, showing the cost of labor and supplies; also an account showing labor and material used for all improvements and repairs about the penitentiaries or to the penitentiary property.

And in order to keep these accounts a valuation shall be fixed upon the labor of the convicts employed in every capacity. and such accounts shall be made up from weekly statements to be furnished by the Assistant Superintendents and foremen. A strict account shall also be kept with each separate convict force on the outside, showing receipts and debiting each force with cost of supplies of each description, cost of guarding, feeding, clothing, medical attention, transportation to and from, etc.

Section 76. He shall have charge and custody of all property, supplies, provisions, medicines, clothing, bedding, shoes, etc., purchased or manufactured for use of the penitentiaries, and shall issue the same to the prisons proper on requisitions approved by the Assistant Superintendent, and to the outside camps on the requisitions of the sergeants in charge, approved by the Superintendent of penitentiaries.

Section 77. He shall in the purchase of all provisions and other supplies for the prison proper or the outside camps. consult with the Superintendent of penitentiaries, and endeavor to bring all the competition possible to bear so as to make his purchases at the very lowest cash prices.

Section 78. He shall, in conjunction with the Superintendent of penitentiaries, under such regulations as the penitentiary board may prescribe, make all contracts for the hire of convict labor either outside or inside the walls of the penitentiaries, or on share farms, should convicts be worked under the contract system. (But all convicts shall be placed within the walls of the penitentiaries, or on state farms and worked on state account as soon and speedily as possible.) Also for work to be done with convict labor. He shall be allowed such clerical help as the penitentiary board, shall from time to time deem necessary to enable him to properly discharge the duties incumbent upon him.

Section 79. He shall biennially, on the first day of November, furnish the penitentiary board with an abstract of his receipts, disbursements, sales, and purchases for the preceding two years, together with such other information relating to the financial transactions of the penitentiaries as the penitentiary board shall require at his hands, which shall be made a part of the biennial penitentiary report.

Section 80. Suits for the recovery of moneys due on account of sales or otherwise, belonging to the Texas State penitentiaries or either of them, or for property of any description belonging to said penitentiaries or either of them, shall be brought in the name of the Financial Agent of the Texas State Penitentiaries for the use of the Texas State penitentiaries or either of them, as the case may be.

Section 82. The Superintendent of penitentiaries shall give bond in the sum of twenty five thousand dollars with two or more good and sufficient sureties, payable to the Governor and his successors in office, conditioned upon the faithful performance of the duties of his office, the same to be approved by the penitentiary board and the Governor and filed in the office of the Secretary of State. The penitentiary board shall require the Assistant Superintendents and sergeants to give bond payable to the Superintendent of penitentiaries, conditioned upon the faithful performance of their duty, with two or more good and sufficient sureties, in such amount and with such conditions as it may deem proper. Said bond to be approved by said board and filed with the Superintendent of penitentiaries.

Section 83. That all laws and parts of laws in conflict with this act be and the same is hereby repealed.

Section 84. The near approach of the close of the present session of the Legislature and the great public importance of this bill becoming a law, and the great advantage to be gained by the State in the management of the State penitentiaries under this act, creates an emergency and an imperative public necessity exists requiring the suspension of the constitutional rule requiring bills to be read on three several days be suspended, and said rule is so suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act originated in the Senate and passed the same March 4, 1891, and passed the House April 13, 1891—vote not given in either house.]
Approved April 15, 1891.

INSANE CONVICTS.

Sec.

1. Amends title 8, R. S., by adding article 101a.
- Article 101a. County to pay expense of conveying insane convicts to

Sec.

- asylum; duty of superintendent of penitentiaries.
2. Emergency clause.

CHAP. 83.—[H. B. No. 276.] An Act to amend title 8 of the Revised Civil Statutes of the State of Texas by adding thereto article 101a.

Section 1. Be it enacted by the Legislature of the State of Texas: That title 8 of the Revised Civil Statutes of the State of Texas be amended by adding thereto article 101a, which shall read as follows:

Article 101a. Where a convict shall be discharged from one of the State penitentiaries, and is insane at the time of his discharge, and shall be adjudged insane in the county in which such penitentiary is situated, within thirty days after such discharge, the expenses of conveying said patient to the asylum shall be paid by the county from which he was sent to the said penitentiary upon a sworn account as provided in the preceding article, accompanied by a certificate of the Superintendent of the penitentiaries, showing the date of the discharge of said convict, and the county from which he was received, and a certificate of the County Judge of the county in which said convict was adjudged insane under his official seal, showing the fact of such adjudication and the date thereof, and if said patient shall not have the articles provided for in article 120 of this chapter, they shall be furnished to him by the Superintendent of the penitentiaries at the expense of the State.

Sec. 2. The near approach of the end of the session, and the large amount of business now before the Legislature for its consideration, creates an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended and it is so enacted.

Approved April 15, 1891.

STOCK INSPECTION LAW.

Sec.

1. Amends act of March 23, 1891.
Section 1a. Counties exempt from
stock inspection law.

Sec.

2. Emergency clause.

CHAP. 84.—[S. B. No. 378.] An Act to amend section one of an act approved March 23, 1891, entitled an act to amend chapter 25 of the acts of A. D. 1883, entitled an act to amend chapter 48, of the acts of A. D. 1887, an act to amend section 46 of an act to encourage stockraising and to protect stockraisers, approved April 22, 1879, and amended April 12, 1880, March 27, 1887, and March 29, 1886, by adding to section 1, section 1a.

Section 1. Be it enacted by the Legislature of the State of Texas: That section 1 of the above recited act be amended by adding thereto section 1a, as follows, to wit:

Section 1a. The following named counties are exempted from the operation of the stock inspection law, to wit: Wilbarger, Hardeman, Archer, Bailey, Deaf Smith, Dallam, Oldham, Hartley, Hockley, Cochran, Foard and Wichita.

Sec. 2. The near approach of the end of the session, the great number of bills requiring attention and the importance to the counties affected by this bill creates an emergency and an imperative public necessity exists for the suspension of the constitutional rule requiring bills to be read on three several days, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act as enrolled contains no certificate of the Secretary of the Senate, nor of the Chief Clerk of the House of Representatives showing that the same passed either house, by a two-thirds or any other vote.]

Approved April 15th, 1891.

APPROPRIATIONS.

- Sec. 1. Appropriations for support of State government, etc.
Emergency clause.

CHAP. 85.—[S. H. B. No. 400.] An Act making appropriations for the support of the State Government for the years beginning March 1, 1891, and ending February 28, 1893, to cover deficiencies and for other purposes.

Section 1. Be it enacted by the Legislature of the State of Texas: That the following sums of money, or so much thereof as may be necessary, are hereby appropriated out of any money in the Treasury, not otherwise appropriated, for the support of the State government for the years beginning March 1, 1891, and ending February 28, 1893, to cover deficiencies and for other purposes:

Executive Office.

	Year ending—	
	February 29, 1892.	February 28, 1893.
For salary of governor.....	\$4,000 00	\$4,000 00
salary of private secretary.....	2,000 00	2,000 00
salary of stenographic clerk.....	1,500 00	1,500 00
books and stationery.....	300 00	300 00
freight, postage and telegraphing.....	800 00	800 00
salary of a porter.....	480 00	480 00

	Year ending—	
	February 29, 1892.	February 28, 1893.
fuel and light for mansion.....	\$500 00	\$500 00
contingent expenses	300 00	300 00
governor's mansion and furniture, also for grounds surrounding mansion, including repairs to mansion and improvements to grounds.....	2,000 00	1,000 00
payment of rewards and other contingent expenses necessary in the enforcement of the law.....	15,000 00	15,000 00
payment of balance of fee of special counsel in the Greer county case in the supreme court of the United States and for collecting testimony for the State therein, including the services of a Spanish expert, if found necessary, and for the traveling expenses of the attorney general while actually engaged in collecting such testimony and attending the supreme court at Washington in said case, to be paid out and expended under the direction of the governor.....	10,000 00	
Or so much thereof as may be necessary.		
water and ice	125 00	125 00
to pay salary and expenses of revenue agent.....	2,500 00	2,500 00
one sixty drawer Shannon filing cabinet, two extra alphabets, five dozen binding cases similar to those in the offices of the attorney general and secretary of state, also roller copier and one dozen rolls copying paper, with freight and drayage.....	350 00	
amount due for labor on grounds at governor's mansion, January and February, 1891.....	40 00	
amount due Kreisle & Co., Austin.....	49 88	
To pay for repairing and tuning piano by Thos. Goggan & Bro., February 1, 1891.....	20 00	

State Department.

For salary of secretary of state.....	\$2,000 00	\$2,000 00
salary of chief clerk.....	1,800 00	1,800 00
salary of assistant clerk.....	1,400 00	1,400 00
salary of second assistant clerk.....	1,000 00	1,000 00
salary of third assistant clerk.....	900 00	900 00
salary of porter	360 00	360 00
extra clerk hire	200 00	
freight, postage and express.....	1,500 00	1,500 00
books and stationery	400 00	400 00
contingent expenses	100 00	100 00
furniture, files, etc.	100 00	100 00

	Year ending—	
	February 28, 1892.	February 28, 1893.
books and stationery	\$54 02	
postage and express	9 75	
contingent	5 10	
For publishing constitutional amendments.....	20,000 00	

Treasury Department.

For salary of treasurer	\$2,500 00	\$2,500 00
salary of chief clerk	2,000 00	2,000 00
salary of book keeper	1,600 00	1,600 00
salary of assistant book keeper.....	1,200 00	1,200 00
salary of receiving clerk	1,500 00	1,500 00
salary of corresponding clerk	1,400 00	1,400 00
salaries of two book keepers in the land department.	2,800 00	2,800 00
salary of examining clerk.....	1,400 00	1,400 00
salaries of seven assistant book keepers in land department	8,400 00	8,400 00
salary of one porter who acts as messenger and collector	600 00	600 00
books and stationery	500 00	500 00
postage	750 00	750 00
contingent expenses	150 00	150 00
keeping in repair time locks combinations and vault.	150 00	150 00
salary of night watchman.....	900 00	900 00
office furniture and files	300 00	300 00
to refund to purchasers of public domain and other public lands, the money paid by them into the State treasury as the purchase money on lands for which they have been unable to acquire title for the reason mentioned in the act of April 14, 1883, page 113, general laws (one-half to be paid out of general revenue and the other half out of permanent school fund), these being the funds to which the said payments are credited, to be expended within two years	15,000 00	

Comptroller's Office.

For salary of comptroller	\$2,500 00	\$2,500 00
salary of chief clerk	1,800 00	1,800 00
salary of chief book keeper.....	1,600 00	1,600 00
salary of assistant book keeper.....	1,200 00	1,200 00
salary of sheriff and witness accountant, who shall perform such other duties as may be required of him	1,500 00	1,500 00
salary of clerk who shall perform such duties as may be required of him by the comptroller.....	1,200 00	1,200 00
salary of receiving clerk	1,500 00	1,500 00

	Year ending—	
	February 29, 1892.	February 28, 1893.
salary of chief tax clerk.....	\$1,500 00	\$1,500 00
salaries of two warrant clerks.....	3,000 00	3,000 00
salaries of three corresponding clerks.....	4,200 00	4,200 00
salaries of two auditing clerks.....	2,800 00	2,800 00
salary of one deposit warrant clerk.....	1,400 00	1,400 00
salary of one redemption clerk.....	1,400 00	1,400 00
salary of one examining clerk.....	1,400 00	1,400 00
salaries of first assistant clerks, none of whom shall receive more than \$1,250.00 per annum.....	12,500 00	12,500 00
salaries of second assistant clerks, none of whom shall receive more than \$1,000.00 each per annum.....	10,000 00	10,000 00
salaries of two porters and messengers at \$360.00 each	720 00	720 00
salary of one clerk for registering city, county and other bonds	1,500 00	1,500 00
salary of night watchman	600 00	600 00
telegraphing, contingent, postage and assessment rolls	3,500 00	3,500 00
books, stationery, binding rolls, etc.....	3,000 00	3,000 00
payment of expenses connected with retiring state bonds	500 00	

General Land Office.

For salary of commissioner.....	\$2,500 00	\$2,500 00
salary of chief clerk	1,800 00	1,800 00
salary of Spanish clerk	1,600 00	1,600 00
salary of receiving clerk.....	1,800 00	1,800 00
salary of first assistant clerk.....	1,500 00	1,500 00
salary of examining clerk.....	1,500 00	1,500 00
salaries of two corresponding clerks.....	2,800 00	2,800 00
salary of chief patenting clerk.....	1,350 00	1,350 00
salaries of two patenting clerks.....	2,400 00	2,400 00
salaries of two abstract clerks.....	2,400 00	2,400 00
salaries of two filing clerks.....	2,250 00	2,250 00
salary of one file room clerk.....	1,200 00	1,200 00
salaries of four general clerks at \$1,080.00 each.....	4,320 00	4,320 00
salaries of two transcript clerks at \$1,200.00 each....	2,400 00	2,400 00
salary of chief draftsman.....	1,800 00	1,800 00
salaries of six compiling draftsmen.....	9,000 00	9,000 00
salaries of seven assistant draftsmen.....	8,400 00	8,400 00
salary of night watchman	600 00	600 00
salary of one porter	480 00	480 00
stationery, books and furniture	3,000 00	2,000 00
postage and telegraphing	1,000 00	1,000 00
wood	250 00	250 00
contingent expenses	100 00	100 00
lithographic maps	1,200 00	1,200 00

	Year ending—	
	February 28, 1892.	February 28, 1893.
water and repairs to fixtures.....	\$500 00	\$500 00
repairs on building	1,500 00	500 00
Classification, sale and lease of school and other public lands (to be paid out of their respective funds) for two years ending February 28, 1893, \$50,000.00, out of which shall be paid the clerks whose services may be necessary for the classification, sale or lease of said lands, the chief of whom may receive not to exceed \$1,600.00 per annum, and one book keeper and one corresponding clerk, who shall receive not to exceed \$1,400.00 each per annum, the balance of the clerks of this department to receive not to exceed \$1200.00 each per annum.		
For additional clerks and draftsmen.....	6,000 00	6,000 00

Attorney General's Office.

For salary and fees of Attorney General.....	\$3,500 00	\$3,500 00
salary of first office assistant.....	2,500 00	2,500 00
salary of second office assistant.....	2,250 00	2,250 00
salary of third office assistant.....	1,800 00	1,800 00
salary of stenographic clerk.....	1,400 00	1,400 00
salary of filing and recording clerk.....	1,200 00	1,200 00
stationery	250 00	150 00
postage	200 00	200 00
telegraphing	75 00	75 00
law books and periodicals.....	300 00	250 00
cost of depositions, procuring evidence, etc.....	500 00	500 00
porter and messenger hire.....	420 00	420 00
actual traveling expenses incurred by Attorney General, or any of his assistants, in giving attention to the state's business pending elsewhere than in the courts held in the city of Austin, vouchers to be made under official certificate.....	600 00	600 00
contingent expenses	250 00	100 00
stationery (deficiency)	75 00	
law books and periodicals (deficiency).....	40 00	

Adjutant General's Office.

For salary of adjutant general.....	\$2,000 00	\$2,000 00
salary of chief clerk	1,200 00	1,200 00
salary of porter, who shall also serve superintendent public instruction	360 00	360 00
stationery, postage and telegraphing.....	300 00	300 00
incidental expenses	50 00	50 00
handling and transportation of ordnance and repair of arms	500 00	500 00

	Year ending—	
	February 29, 1892.	February 28, 1893.
protection of the frontier and suppression of lawlessness and crime	\$40,000 00	\$40,000 00
adjutant general's expenses as inspector of arms, troops, etc.	300 00	300 00
payment of militia when called into active service under the law, and for expenses incurred in holding annual state encampment, at such time and place as may be designated by the governor, or in attending a national encampment, and for all other militia expenses, payment to be made upon approval of the governor.....	15,000 00	15,000 00

Department of Agriculture, Insurance, Statistics, Etc.

For salary of commissioner	\$2,000 00	\$2,000 00
salary of chief clerk.....	1,800 00	1,800 00
salary of assistant clerk.....	1,200 00	1,200 00
salary of agricultural clerk.....	1,500 00	1,500 00
salary of historical clerk.....	1,500 00	1,500 00
additional clerk hire	300 00	300 00
subscription to newspapers for binding.....	200 00	200 00
books for state library.....	300 00	300 00
librarian and office assistant.....	360 00	360 00
salary of statistical clerk.....	1,200 00	1,200 00
contingent expenses and telephone.....	110 00	110 00
payment of actual expenses of commissioner in enforcing insurance laws	200 00	200 00
postage, stationery and express	1,400 00	1,400 00
printing blanks and other printing	1,200 00	1,200 00
continuing geological survey, provided that the clerk under this appropriation may be paid not to exceed \$100.00 per month, and provided further, that the state geologist and not to exceed three geologists may be paid out of this appropriation not to exceed \$2,500 00 each per annum.....	35,000 00	35,000 00
printing agricultural, insurance and geological reports	5,000 00	5,000 00
purchasing book cases and shelving.....	1,200 00	
traveling and other expenses of expert to examine and test the quality and value and best methods of utilizing the various kinds of lignite in this state	3,000 00	
furniture for agricultural department for purpose of preserving and displaying an exhibit of the agricultural products of the State.....	2,000 00	500 00

Year ending—
February 29, 1892. February 28, 1893.

Public Printing.

For public printing—all accounts to be paid under the supervision and at the discretion of the printing board

\$20,000 00 \$20,000 00

The printing board shall, so far as it may be in their judgment to the interest of the State, cause all printing and binding to be done under contract, and no printing shall be done at the Deaf and Dumb Asylum except such as is contemplated by the constitution.

Supreme Court.

For salary of three judges.....	\$10,650 00	\$10,650 00
books and stationery	1,000 00	1,000 00
fuel and lights	350 00	350 00
postage and contingent expenses	1,000 00	1,000 00
purchase of English law books.....	6,000 00	
furniture	200 00	100 00
porter hire	600 00	600 00
purchasing books for supreme court libraries.....	3,000 00	3,000 00
sheriffs' attendance	300 00	300 00
clerks costs in civil cases adjudged against the State	150 00	150 00
salaries of three librarians—one at Austin \$500, one at Tyler \$300, one at Galveston \$300.....	1,100 00	1,100 00
purchase of books for consultation room of supreme court at Austin	300 00	
payment of balance due Banks & Brothers for books purchased	250 00	

Commission of Appeals.

For salaries of six judges.....	\$21,300 00	\$21,300 00
books and stationery.....	500 00	500 00
fuel and lights	400 00	400 00
postage and contingent expenses	900 00	900 00
furniture	200 00	200 00
sheriffs' attendance on court.....	200 00	200 00
hire of porters	600 00	600 00
purchase of laws books.....	400 00	400 00

Court of Appeals.

For salaries of three judges.....	\$10,650 00	\$10,650 00
clerks fees in criminal cases.....	4,000 00	4,000 00
sheriffs' attendance on courts.....	300 00	300 00
postage and contingent expenses.....	600 00	600 00
fuel and lights	200 00	200 00
law books to be selected by the presiding judge....	200 00	200 00

	Year ending—	
	February 23, 1892.	February 23, 1893.
record books and stationery.....	\$750 00	\$750 00
furniture	100 00	100 00
salary and fees of assistant attorney general and traveling expenses	3,000 00	3,000 00
salary of stenographic clerk who shall also act as clerk for assistant attorney general.....	1,500 00	1,500 00
porter hire	360 00	360 00
pigeon holes for court of appeals at Tyler.....	200 00	

Judicial Department.

For salaries of fifty three district judges.....	\$132,500 00	\$132,500 00
salaries of thirty seven district attorneys.....	18,500 00	18,500 00
salary of one criminal district attorney.....	500 00	500 00
salary of one criminal district judge.....	2,500 00	2,500 00
fees and costs of sheriffs, clerks and attorneys in felony cases, and in all civil cases when such costs are adjudged against the State, or where such costs can not be recovered from the defendant in which only such costs as are incurred by the State in such civil case shall be paid out of this fund.....	350,000 00	350,000 00
For salaries of special judges.....	7,000 00	7,000 00
fees of county judges, justices of the peace, sheriffs and constables in examining cases.....	15,000 00	15,000 00
expenses of attached witnesses.....	75,000 00	75,000 00

Provided that the comptroller shall approve no claims of any person attached as a witness while under indictment for a felony in the same court in which he is attached to testify.

For publishing supreme court reports.....	7,500 00	7,500 00
salary of supreme court reporter.....	3,000 00	3,000 00
salary of court of appeals reporter.....	3,000 00	3,000 00
publishing court of appeals reports.....	4,000 00	4,000 00
post mortem examination of convicts.....	300 00	300 00
payment of A. W. Terrell balance in full for publish- ing 71st volume of Texas reports.....	115 00	

Railway Commission.

For salaries of three commissioners.....	\$12,000 00	\$12,000 00
salary of secretary	2,000 00	2,000 00
salaries of two clerks at \$1,500 each.....	3,000 00	3,000 00
pay of experts and other necessary expenses to be expended as required within the two years.....	30,000 00	
sheriffs and witnesses' fees and mileage to be used as needed for two years	15,000 00	

	Year ending—	
	February 23, 1892.	February 23, 1893.
transportation of members of commission and clerks.	\$3,000 00	\$3,000 00
postage, telegraphing, stationery and books.....	1,500 00	1,000 00
office furniture, fixtures and files.....	1,500 00	500 00
contingent expenses	100 00	100 00

Public Buildings and Grounds.

For salary of superintendent.....	\$1,500 00	\$1,500 00
salary of engineer.....	1,350 00	1,350 00
salary of assistant engineer, who shall perform any and all services required by the superintendent....	900 00	900 00
salaries of two firemen.....	1,200 00	1,200 00
salaries of cleaners	1,500 00	1,500 00
salaries of two night watchmen.....	1,200 00	1,200 00
salaries of two day watchmen.....	1,440 00	1,440 00
services additional watchmen	200 00	200 00
water, fuel, light and contingencies.....	9,000 00	9,000 00
running elevator	600 00	600 00
traveling expenses of superintendent.....	300 00	300 00
oil and water for steam pumps.....		
oil for furniture and wainscoating.....		
drawing paper for plans and stationery.....	200 00	200 00
tools	100 00	100 00
repairs of sewer	250 00	250 00
water at state cemetery (contract).....	200 00	200 00
labor at cemetery grounds.....	300 00	300 00
oil and labor for oiling wood work in capitol building	300 00	300 00
coal scales	100 00	100 00
painting and repairs of capitol building to be ex- pended within two years	5,000 00	
fire protection of capitol and university buildings....	300 00	300 00
lighting vaults during day time.....	300 00	300 00
expenses for extra hands, gas and water for month of March	214 55	214 55
flag staff	100 00	

Pensions.

For pay of veterans under general laws.....	\$70,000 00	\$70,000 00
pay of Dillard Cooper, special pensioner.....	250 00	250 00
pay of John Day, special pensioner.....	100 00	100 00
pay of John Fields, special pensioner.....	200 00	200 00
pay of J. W. Nichols, special pensioner.....	100 00	100 00
pay of J. B. Thatcher, special pensioner.....	100 00	100 00
pay of Mrs. S. L. Cole, special pensioner.....	150 00	150 00
pay of M. B. Irwin, special pensioner.....	150 00	150 00
pay of P. H. Bell, special pensioner.....	150 00	150 00
pay of Madam Candelaria, special pensioner.....	150 00	150 00

Year ending—
February 23, 1892. February 23, 1893.

Quarantine Department.

For pay of officers, employees, transportation supplies and all other necessary expenses legally incurred.....	\$40,000 00	\$40,000 00
building, repairs, tents and equipment at quarantine stations	10,000 00	5,000 00
removal and reconstruction of the quarantine station at Galveston, provided the same shall be deemed expedient by the governor and state health officer, to be expended either year.....	15,000 00	

The purchase of the disinfecting plant at Sabine Pass, provided the governor and state health officer shall deem it for the best interest of the state to purchase the same, \$5,000.00 to be expended during either year.

The state health officer is authorized if he believe it to be to the best interest of the state, to sell the boat "Bessie Ross," to the best advantage, and the proceeds therefrom to be paid into the treasury of the State and applied to the payment of the above appropriation for quarantine purposes.

Public Debt.

For payment of interest on public debt.....	\$252,042 20	\$252,042 20
to pay all state bonds not held by special state funds, now due or redeemable, or which may become due or redeemable within the next two years.....	248,700 00	

Said amount to be borrowed from the permanent school fund, and for the sum so borrowed there may be issued manuscript bond or bonds, of the State of Texas, signed by the governor and treasurer and countersigned by the comptroller; said bonds to be payable to the State of Texas in trust for the common school fund, to be non negotiable, to bear interest at the rate of five per cent per annum, and to be redeemable at the pleasure of the state at any time after five years from the date of issuance; the comptroller shall notify, by publication, the holders of the bonds, redemption of which is herein provided for, that the same have been called for redemption and interest on said bonds shall cease from the date of the call.

Insane Asylum at Austin.

For salary of superintendent.....	\$2,000 00	\$2,000 00
salary of first assistant physician.....	1,500 00	1,500 00

	Year ending—	
	February 28, 1892.	February 28, 1893.
salary of second assistant physician.....	\$1,500 00	\$1,500 00
salary of steward and book keeper.....	1,000 00	1,000 00
salary of matron.....	600 00	600 00
salary of apothecary.....	600 00	600 00
salary of engineer and plumber.....	750 00	750 00
salary of assistant engineer and mechanic.....	500 00	500 00
salary of supervisor and assistant steward.....	780 00	780 00
salary of supervisors.....	480 00	480 00
salary of outside supervisor.....	600 00	600 00
additional gardener.....	360 00	360 00
salary of chief cook.....	600 00	600 00
salary of first assistant cook.....	300 00	300 00
salaries of two second assistant cooks.....	480 00	480 00
salary of baker.....	480 00	480 00
salary of carpenter and blacksmith.....	480 00	480 00
salaries of two firemen.....	720 00	720 00
salaries of six night watchmen.....	2,160 00	2,160 00
salary of head laundress.....	360 00	360 00
salaries of six laundresses.....	1,440 00	1,440 00
salaries of six seamstresses.....	1,440 00	1,440 00
salary of head seamstress.....	300 00	300 00
salaries of fifty attendants.....	12,000 00	12,000 00
salaries of two skilled nurses.....	600 00	600 00
salaries of two farm laborers.....	480 00	480 00
salary of one dairyman.....	300 00	300 00
salary of scavenger.....	200 00	200 00
groceries, provisions, fuel, light and water.....	60,000 00	60,000 00
dry goods, bedding and clothing.....	12,000 00	12,000 00
additional ward furniture.....	900 00	900 00
repairs, sewerage, plumbing, painting and tools.....	5,000 00	2,500 00
transportation of patients.....	1,500 00	1,500 00
medical stores.....	1,500 00	1,500 00
literature and music.....	500 00	500 00
contingent expenses.....	800 00	800 00
furniture for superintendent's residence.....	500 00	
tank and fixtures to be expended during either year..	500 00	
hose and hose carts.....	1,200 00	
cows.....	2,000 00	
hacks, wagons and harness.....	500 00	
scales.....	200 00	
constructing new laundry building, repairing and re- modeling old laundry and basement, to be expended during either year.....	5,000 00	
work animals.....	300 00	
laundry machinery.....	900 00	
fencing and repairing fences on asylum grounds.....	1,000 00	
groceries, provisions, etc., estimated for February, 1891	5,000 00	

	Year ending—	
	February 28, 1892.	February 28, 1893.
groceries, provisions, etc., actual to February 1, 1891	\$4,981 82	
dry goods, bedding, etc.....	1,021 83	
dry goods, bedding, etc., estimated for February, 1891	500 00	
repairs, sewerage, etc., actual for February 1, 1891...	1,253 43	
repairs, sewerage, etc., estimated for February, 1891..	500 00	
medical stores, etc., actual to February 1, 1891.....	256 38	
medical stores, etc., estimated for February, 1891....	200 00	

Provided that the interest on all securities held by the lunatic asylum fund is hereby appropriated in part payment of the appropriations of the three lunatic asylums, the remainder of the appropriations to be paid out of the general revenue. All moneys now in, or which may hereafter be paid into the treasury for the board and treatment of non-indigent patients, and from sales of the personal property of the lunatic asylums at Austin, Terrell and San Antonio shall be paid over to the state treasurer monthly and credited by him to the general revenue account.

North Texas Insane Asylum.

For salary of superintendent.....	\$2,000 00	\$2,000 00
salary of first assistant physician.....	1,500 00	1,500 00
salary of second assistant physician.....	1,500 00	1,500 00
salary of apothecary	600 00	600 00
salary of book keeper and steward.....	1,000 00	1,000 00
salary of store keeper.....	300 00	300 00
salary of matron	600 00	600 00
salary of ward supervisor.....	360 00	360 00
salary of ward supervisoress.....	360 00	360 00
salaries of carpenters	720 00	720 00
salary of engineer	720 00	720 00
salary of assistant engineer.....	480 00	480 00
salaries of two firemen	720 00	720 00
salary of painter and plasterer.....	480 00	480 00
salary of gardener	480 00	480 00
salary of assistant gardener.....	240 00	240 00
salary of scavenger	240 00	240 00
salary of chief farmer and outside supervisor.....	480 00	480 00
salaries of two farm hands.....	480 00	480 00
salary of cook	600 00	600 00
salary of first assistant cook.....	300 00	300 00
salary of second assistant cook.....	240 00	240 00

	Year ending—	
	February 29, 1892.	February 28, 1893.
salary of third assistant cook.....	\$240 00	\$240 00
salary of baker	480 00	480 00
salary of assistant baker	240 00	240 00
salary of head laundress.....	360 00	360 00
salaries of seven laundresses.....	1,680 00	1,680 00
salaries of seven seamstresses.....	1,680 00	1,680 00
salaries of 64 attendants (or so many thereof as may be necessary), who shall receive an average salary of twenty dollars per month.....	15,360 00	15,360 00
salaries of two special nurses.....	600 00	600 00
salary of one outside watchman.....	360 00	360 00
salaries of four night watchmen.....	1,440 00	1,440 00
salary of dairyman	360 00	360 00
salary of assistant dairyman.....	240 00	240 00
groceries, fuel, light and water.....	60,000 00	80,000 00
transportation	1,500 00	1,500 00
contingent expenses	1,000 00	1,000 00
dry goods and clothing.....	10,000 00	12,000 00
medical stores	2,000 00	2,000 00
wagons, hacks and harness	400 00	
carpenters and engineers tools.....	200 00	
trees, seeds and stock	250 00	250 00
furniture and beds	1,500 00	2,500 00
general repairs	1,000 00	1,000 00
expenses of board of managers to Austin.....	150 00	150 00
mules, horses and cows, to be expended within two years	2,500 00	
building and infirmary	6,000 00	
repairing basement	6,000 00	
extension of sewer	3,000 00	
purchase of hose cart, large horse and hose for wards	600 00	
extension of recreation hall	1,000 00	
enlarging kitchen, laundry and bake oven.....	500 00	
fencing grounds	500 00	
literature and amusement	500 00	500 00
carpenter shop, paint house and dead house.....	1,000 00	
painting and repairing roof and outside of building..	1,200 00	
pipng and plumbers work in basement.....	1,950 00	
kitchen and wash room floors.....	100 00	
repairing of drying room	75 00	
ceiling partition walls	100 00	
repairing bridge	100 00	
assistant carpenter	480 00	480 00
to secure water supply under the direction of the board of managers, with the advice of the attorney general, to be expended within two years.....	12,000 00	
groceries, fuel, gas and water (deficiency).....	6,927 27	

	Year ending—	
	February 29, 1891.	February 28, 1893.
furniture, beds, etc., (deficiency).....	\$321 56	
medical stores, (deficiency).....	175 73	
general repair (deficiency).....	30 47	

Southwestern Insane Asylum.

For salary of superintendent.....	\$1,500 00	\$2,000 00
salary of assistant superintendent.....		1,500 00
book keeper, steward and male supervisor.....		1,000 00
matron and supervisors.....		600 00
engineer and plumber.....	380 00	700 00
gardener and farmer.....	350 00	480 00
chief cook.....		480 00
assistant cook.....	200 00	300 00
baker.....		480 00
carpenter and blacksmith.....		480 00
two firemen.....		720 00
two night watchmen.....		720 00
head laundress.....		300 00
three laundresses.....		720 00
two seamstresses.....		480 00
one skilled nurse.....		300 00
sixteen attendants, or so many as may be necessary, who shall receive an average of \$20.00 per month..		3,840 00
two farm hands.....	480 00	480 00
one dairyman.....		300 00
groceries, fuel, etc.....	700 00	18,000 00
transportation.....		500 00
contingent expenses.....		400 00
dry goods, bedding, clothing, etc.....		3,000 00
medical stores and instruments.....		700 00
furniture, to be expended during two years.....		2,500 00
mules, horses, cows and swine for two years.....		1,500 00
expenses of board of managers to Austin.....		150 00
wagons and harness for two years.....		1,000 00
trees, seeds and tools.....	375 00	375 00
clearing and fencing farm and building barn.....	3,000 00	
equipment of laundry.....	500 00	
construction of boiler house, kitchen, laundry, clothes room, carpenter shops, blacksmith shops and drying room, to be expended within two years.....	35,000 00	
two underground culverts, to be expended within two years.....	4,000 00	
engines, boilers, pumps, electric lights, drainage and heat, to be expended within two years.....	20,000 00	

Year ending—
February 29, February 28,
1892. 1893.

iron beams supporting floors, to be expended within two years	\$3,000 00
water supply, to be expended within two years.....	4,000 00

Blind Asylum.

For salary of superintendent.....	\$2,000 00	\$2,000 00
salary of steward and book keeper.....	600 00	600 00
salary of matron and house keeper.....	450 00	450 00
salary of assistant matron.....	360 00	360 00
salaries of teachers in school, music, shop and kindergarten	8,500 00	8,500 00
salary of oculist	900 00	900 00
salary of nurse and seamstress.....	360 00	360 00
salary of teachers of sewing, cutting and fitting.....	360 00	360 00
salary of night watchman	500 00	500 00
salaries of engineer and plumber and one assistant...	750 00	750 00
salaries of cook and assistants.....	750 00	750 00
salaries of laundresses	700 00	700 00
transporting indigent pupils.....	900 00	900 00
clothing for indigent pupils.....	850 00	850 00
water for fire protection (contract).....	500 00	500 00
groceries, provisions, miscellaneous, which shall include pay of members of the board of trustees \$5.00 each per month for services in attending business meeting of the board.....	22,000 00	22,000 00
repairs, reroofing, replastering and repainting building, etc.	4,000 00	1,500 00
new buildings to be expended during the two years.	15,000 00	
furniture	3,000 00	
music	900 00	600 00
school apparatus	500 00	300 00
the purchase of Miss Lizzie Sthreshley's patent point typewriter for the blind.....	1,000 00	

Deaf and Dumb Asylum.

For salary of superintendent.....	\$2,000 00	\$2,000 00
salary of principal and teacher.....	1,500 00	1,500 00
salary of first assistant teacher.....	1,000 00	1,000 00
salaries of second and third assistant teachers.....	1,320 00	1,320 00
salaries of fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh and twelfth assistant teachers....	4,860 00	4,860 00
salary of articulation teacher.....	720 00	720 00
salary of art teacher.....	600 00	600 00
purchase of art supplies.....	400 00	400 00

	Year ending—	
	February 29, 1892.	February 28, 1893.
salary of secretary and steward.....	\$720 00	\$720 00
salaries of matron and one assistant.....	960 00	960 00
salary of night watchman.....	360 00	360 00
salaries of gardener and two laborers.....	900 00	900 00
salaries of five washers and ironers.....	900 00	900 00
salary of baker.....	360 00	360 00
salaries of first and second cooks.....	576 00	576 00
salary of engineer.....	1,000 00	1,000 00
salary of monitor.....	360 00	360 00
salary of two monitresses.....	720 00	720 00
salary of expert book binder.....	720 00	720 00
salary of expert printer.....	900 00	900 00
salary of expert shoe maker.....	720 00	720 00
salary of expert carpenter.....	720 00	720 00
supplies, provisions, etc., which shall include the pay of members of the board of trustees, \$5.00 each per month, for services in attending business meetings of the board.....	20,000 00	22,000 00
water for fire protection.....	1,000 00	1,000 00
furnishing fund.....	1,500 00	1,500 00
clothing and transportation of indigent pupils.....	1,000 00	1,000 00
erection of additional story to buildings and repairs, to be expended within the two years.....	30,000 00	

Orphan Asylum.

All of the available fund belonging to the asylum for its support and maintenance.

For salary of superintendent.....	\$1,500 00	\$1,500 00
salary of matron.....	500 00	500 00
salaries of two teachers.....	900 00	900 00
salaries of cook and one assistant.....	450 00	450 00
salaries of laundress and assistant.....	600 00	600 00
salary of physician.....	600 00	600 00
farm labor.....	500 00	500 00
salaries of 5 assistant nurses at \$240.00 each per annum.....	1,200 00	1,200 00
night watchman.....	360 00	360 00
salary of scavenger.....	100 00	100 00
maintenance of inmates.....	8,000 00	10,000 00
fuel.....	400 00	400 00
postage, stationery, etc.....	100 00	100 00
school books, maps and other schoolroom apparatus	100 00	100 00
bedding.....	500 00	150 00
tableware, crockery and hardware.....	75 00	75 00
window curtains, towels and table linen.....	50 00	50 00
transportation.....	150 00	150 00

Year ending—
February 23, February 23,
1892. 1893.

construction of an artesian well, to be expended with-
in the two years \$8,000 00

Provided, that if the board of managers, trustees, and other parties whose duty it is to make purchases for the state lunatic asylum and other asylums and institutions supported by the state, shall purchase such supplies as needed by such institution and kept in stock or raised or manufactured by the state penitentiaries from the financial agent of penitentiary, provided said supplies can be purchased as cheap from said penitentiaries as from other parties.

Deaf, Dumb and Blind Asylum for Colored Youths.

For salary of superintendent	\$1,500 00	\$1,500 00
salaries of two teachers of the deaf and dumb	900 00	900 00
salaries of two teachers of the blind	900 00	900 00
salaries of three teachers in the work shops	750 00	750 00
salary of matron	300 00	300 00
salary of oculist	250 00	250 00
salary of physician	100 00	100 00
salary of night watchman	240 00	240 00
salary of engineer and plumber	500 00	500 00
salaries of laundresses	360 00	360 00
salary of cook	360 00	360 00
transportation of indigent pupils	300 00	300 00
repairs	700 00	700 00
furniture	500 00	500 00
groceries, provisions, miscellaneous, which shall include pay of members of the board of trustees \$5.00 per month each for services in attending business meetings of the board	7,500 00	7,500 00
salary of farmer and gardener	240 00	240 00
improving grounds	100 00	100 00
clothing for indigent pupils	400 00	400 00
tools and apparatus for work shop	200 00	200 00
electric lights	100 00	100 00
paying deficiency	368 00	
paying Walter Tips for artesian well casing \$1,761.17. For labor, coal and repairing of tools \$1,775 00	3,536 17	

Department of Education.

For salary of superintendent	\$2,500 00	\$2,500 00
salary of chief clerk	1,800 00	1,800 00
salary of general assistant clerk	1,200 00	1,200 00

	Year ending—	
	February 29, 1892.	February 28, 1893.
salary of blank clerk.....	\$1,200 00	\$1,200 00
salary of book keeper and statistical clerk.....	1,500 00	1,500 00
salary of stenographic clerk.....	1,200 00	1,200 00
salary of indexing clerk.....	1,200 00	1,200 00
Supporting the public free schools for the years ending August 31, 1892, and 1893, all the available public free school fund of said years, less the amount appropriated from the said fund by this act for other purposes.		
supporting Sam Houston Normal Institute.....	20,000 00	20,000 00
the purchase of books, apparatus, etc., for the use of the institution	2,000 00	2,000 00
For Sam Houston Normal School to pay accounts outstanding against the state, said account made by the local board in order to complete the new building, to-wit:		
amount due J. T. Burt & Co.....	1,275 00	
amount due Phoenix Lumber Co.....	1,390 00	
amount due state penitentiary.....	633 00	
amount due contingent fund	1,483 00	
said amounts to be paid out by the local board Sam Houston Normal School.		
the support of the Prairie View Normal School, to be expended under the supervision of the board of directors of the Agricultural and Mechanical college	10,000 00	10,000 00
the support of the agricultural and mechanical department of the Prairie View Normal School out of the general revenue.....	2,500 00	2,500 00
erection of dormitory for girls at Prairie View Normal School, to be expended within two years.....	25,000 00	

University of Texas.

For the support and maintenance of the University of Texas, all of the available fund, to be under the control of the board of regents, less the appropriation herein paid for the Agricultural and Mechanical college; also all yearly fees collected from students, said fees to be fixed by the regents and to be not more than \$50.00 per year, from each student in the law department and not more than \$10.00 per year from each student in the academic department.

To supplement the available fund in the support and maintenance of the university from the general revenue fund	\$5,000 00	\$5,000 00
To build a chemical laboratory, to be paid from the indemnity fund received from		

	Year ending—	
	February 29, 1892.	February 28, 1893.
the United States, to be expended within the two years	\$25,000 00	
For a heating apparatus for the buildings from said indemnity fund, to be expended within the two years	10,000 00	
To complete the central part of the main building, to be paid from the said indemnity fund, to be expended within the two years.....	5,000 00	
For the library to be paid from the general revenue fund	5,000 00	\$5,000 00
To equip the medical branch of the university, to be expended within the two years.....	30,000 00	
For the support and maintenance of the medical branch.	22,000 00	22,000 00

The board of regents of the university may charge each medical student a tuition fee of not to exceed \$100 for each scholastic year, the proceeds from which shall also be applied to the maintenance and support of said medical branch.

Agricultural and Mechanical College.

For the support and maintenance of the agricultural and mechanical college, payable out of the general revenue	\$19,500 00	\$19,500 00
To be paid out of the available university fund.....	500 00	500 00

In addition to the above, the interest on \$209,000 of state bonds, held by the agricultural and mechanical college fund, is hereby further appropriated for the support of this institution.

For carpenter shops and equipments to be expended within two years	6,000 00	
additional barracks and furniture to be expended within two years	20,000 00	
professors' residences, to be expended within two years	7,500 00	
wiring building and electric light fixtures to be expended within two years	600 00	
construction of artesian well and bathhouses to be expended within two years.....	10,000 00	
tools for mechanical engineering department to be expended within two years.....	2,000 00	

Penitentiaries.

The proceeds of all convict labor, and in addition thereto for making up deficiencies in monthly expenses, and to purchase

Year ending—
February 28, February 28,
1892. 1893.

material to carry on prison industries which shall be paid out by the treasurer on the warrant of the comptroller whenever demanded by the financial agent	\$50,000 00	\$50,000 00
For conveying convicts to the penitentiaries and reformatory	20,000 00	20,000 00
purchase of literature for convicts.....	500 00	500 00
traveling expenses of superintendent of penitentiaries	500 00	500 00
building a school room and hospital at Huntsville, to be expended within two years.....	5,000 00	
machinery for digging artesian wells and piping at Huntsville, to be expended within two years.....	5,000 00	
For machinery at Rusk to be expended within two years	8,000 00	
pipe foundry at Rusk, to be expended within two years	20,000 00	
water supply at Rusk, to be expended within two years	3,000 00	

Reformatory.

For salary of superintendent	\$1,800 00	\$1,800 00
salary of farm supervisor.....	500 00	500 00
salary of two teachers.....	700 00	700 00
salaries of two night watchmen.....	720 00	720 00
salary of steward and dairyman, who has charge of both buildings	360 00	360 00
salary of physician	250 00	350 00
salary of chaplain	200 00	200 00
salary of engineer	500 00	500 00
guards over inmates	2,500 00	3,000 00
salary of board of trustees.....	450 00	450 00
transportation and clothing of discharged inmates and discharge money	350 00	450 00
books, slates, etc.	150 00	200 00
fuel	1,000 00	1,000 00
maintenance, clothing and provisions.....	7,500 00	10,000 00
purchase of blood cattle.....	300 00	
purchase of mules	450 00	
building house for superintendent and employes, to be expended within two years.....	4,000 00	
remodeling and repairs of present building, to be expended within two years.....	1,000 00	
For corn mill	200 00	
To pay Rusk penitentiary for sewer pipe.....	529 29	
To pay Texas state penitentiary for sugar and molasses, bought February 18, 1891.....	35 30	

Year ending—
February 28, 1892, February 28,
1893.

Miscellaneous.

For pay of Edison general electric light company for eight electroleers used in senate chamber and hall of representative	\$1,232 00
pay of Austin water, light and power company for fire protection to state capitol and university buildings for three years ending February 28, 1891, same being in full settlement of all claims of said company against the State for furnishing said building with water for fire protection.....	1,000 00
also for water pipes laid in capitol building and ground	154 00
also for water pipes and fixtures at State insane asylum at Austin	343 00
pay of W. H. Huddle for oil painting, "The Surrender of Santa Anna," to be paid when the picture of the Hon. Moses Austin Bryan is placed thereon	4,000 00
pay of John O'Brien for marble bust of Sam Houston	1,000 00
relief of Jas. P. Hart, clerk of the district court of Travis county, Texas, for costs of district clerk and sheriff in five civil cases where suits were instituted by the attorney general in behalf of the state, and judgments either rendered against the state, or costs incurred by the state, and the defendant insolvent. as shown by the execution on file...	217 48
relief of James H. Robertson, district attorney of the twenty-sixth judicial district, for commissions at the rate of ten per cent upon the first thousand dollars, and five per cent on amounts in excess thereof, on \$12,136.65 collected by sale of land which was purchased by the state in the case of the State of Texas vs. Amos Finch et al., the money so collected having been paid into the state treasury..	533 33
the relief of J. O. Woodward, district attorney of the thirty-fifth judicial district of Texas, for amounts collected on land accounts under the act of 1881, ten per cent on sundry amounts collected, aggregating \$7,526.06, no one of which amounted to one thousand dollars. \$752.60. five per cent commis-	

Year ending—
February 29, 1892. February 28, 1893.

<p>sion on amounts in excess of one thousand dollars on the same purchaser aggregating \$972.60, \$48.63. Total commission \$801.23, exchange paid on drafts \$18.00, (the money so collected having been paid into the state treasury, and the claim being based on returns now on file in the treasury department.)</p>	
total	\$819 23
To pay deficiency for public buildings and grounds.....	177 39
To pay J. D. Sayers in full for services as director of the A. & M. college during the years 1879 and 1880	90 00
To pay J. H. Cochran in full for services as director of the A. & M. College during the years 1879 and 1880	120 00
For salaries of three commissioners for revising and codifying the laws under the law passed at the present session of the Legislature.....	7,500 00
The governor, attorney general and superintendent of public buildings shall constitute a board, who shall advertise for plans and specifications and estimated cost for improving the capitol grounds, any and all of which may be rejected; should any plan be adopted by the board, or by the Legislature, the party submitting the same shall receive for such plans, specifications and estimates, not to exceed the sum of \$2,000.00, which sum and the further sum of \$250 00 for advertising is hereby appropriated. Said plan of improvement shall contain an estimate for a bronze equestrian statue of Gen. Sam Houston, to be placed on elevated granite pedestal	2,500 00
For the purchase of one hundred copies of a map, to be prepared by Langerman & Pressler, to be on the same general plan as the map prepared by them in 1879, on a scale of 8 miles to an inch, to show the result of the topographical survey of the geological department, and the location of railroad, school, university and asylum lands and county lines; to be paid to said Langerman & Pressler on the order of the governor, after said map has been certified to by the commissioner of the general land office and	

Year ending—
February 29, 1892, February 28,
1893.

the commissioner of agriculture, insurance, statistics and history, to be expended in either year... \$2,000 00

Miscellaneous Deficiencies.

For fees of county judges, justices of the peace, sheriffs and constables in examining trials.....	\$5,000 00
For salaries of district judges for February, 1891, N. A. Stedman	208 33
To J. G. Taylor, assignee of P. C. Taylor, to two barrels Portland cement	9 00
To Samuel I. Pope & Co., 729 barrels Lanham's grate castings and cartage	48 52
For publishing Supreme Court reports	232 47
contingent expenses General Land Office.....	30 00
For mileage and per diem of members of committee, pay of stenographer and sergeant at arms, and of witnesses provided in concurrent resolution No. .., provided for joint committee to investigate the receivership of the International & Great Northern Railroad, or so much thereof as may be necessary.	3,000 00
For C. L. Thurman, sheriff of Victoria county for conveying prisoners to the penitentiary in full settlement of all claims against the state.....	125 00
deficiencies in publishing advertisements for supplies for asylums for quarter ending March 1st, 1891...	198 00

The fact that the monthly expenses of the state government are due, and it is important that the same should be promptly paid creates an emergency and public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and it is hereby suspended.

Approved April 16th, 1891.

RAILROADS—PURCHASE AND MAINTENANCE.

Sec.

1. Corporations may be formed for purchase of railway corporations ordered sold.
2. Property subject to judgments claims, etc., of old company;

Sec.

- joinder of parties in suits against new company; executions; service against new company.
3. Emergency clause.

CHAP. 86.—[S. B. No. 300.] An act to provide for the incorporation of Railway Companies for the purpose of acquiring, owning, maintaining and operating any line or lines of railway within this State, authorized by law to be sold and to empower such companies when so organized to purchase and extend.

Section 1. Be it enacted by the Legislature of the State of Texas: That whenever any line or lines of railway or railway properties within

this State are by special law authorized to be sold and conveyed, the persons contemplating or engaging for the purchase thereof, may be formed into a corporation for the purpose of acquiring, owning, maintaining and operating such line or lines of railway by complying, as far as is applicable with the requirements of chapter one (1) of title eighty four (84) of the Revised Statutes of this State. In the formation of such corporation, the requirements of Art. 4100 and so much of Art. 4103 of the Revised Statutes as relates to the affidavit therein provided for may be dispensed with, and words applicable to the case of a purchase may be used and substituted when necessary or proper in the articles of incorporation or elsewhere for or in lieu of words applicable to the building or construction of a railway. And when such corporation has been formed, it shall have the power to purchase, acquire, own, maintain and operate such line or lines of railway, and properties pertaining thereto and all other rights, powers, and privileges given by the laws of this State to Railway Companies, including the right to complete and extend such line or lines of railway and to construct branch lines thereto, and any proposed extension or branch lines may be provided for and included in the original articles of incorporation, or the same may, by amendment thereto at any time thereafter, be projected and provided for by such Company.

Sec. 2. Every railroad company organized under the preceding section of this act, shall take the property so purchased subject to all incumbrances, judgments, claims, suits, claims for damages and for right of way against the old company and subject to all debts and claims for damages, accruing against any receiver which may have been appointed for the old company, to the same extent that such property would have been liable in the hands of the railroad company from which it was purchased, and such new company may be made a party to every suit pending against the company from which it purchased, or which may be pending against any receiver of such company, to enforce any right against such new company, and the new company may be sued to enforce any such rights, without joining the old company or the receiver, and in case any judgment has been rendered against the company from which the purchase is made or against a receiver for such last named company and for which the property is liable, execution may be issued on such judgment against such property in the possession of the new company without any suit therefor. When any corporation shall be formed under the provisions of the first section of this act, service of process may be had upon any agent of such corporation in the county where suit may be pending. Such service shall bind each and every railroad operated or owned under such charter in the same manner as if it were one railroad.

Sec. 3. Whereas, there is doubt whether under existing laws a railway corporation may be formed for the purposes specified in and as provided for by this act, and there is a present public need for such provision of law creating an imperative public necessity and emergency, justifying a suspension of the constitutional rule requiring bills to be read on three several days, and it is therefore so suspended, and that this act take effect and go into force from and after its passage, and it is so enacted.

[Note.—The foregoing act originated in the Senate and passed the same by a vote of 26 yeas and 1 nay; and passed the House by a vote of 77 yeas and no nays.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the second day of April, A. D. 1891, and was not signed by him nor returned to the house in which it originated with his objections thereto; nor were any objections thereto filed by him in this office after adjournment of the Legislature, within the time prescribed by the constitution. This act thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

LAND BOARD—VALIDATING ACTS OF.

Preamble.

- Sec. 1. Failure of land board to comply with act of April 12, 1883, does not render invalid the right of the purchaser under contract with the land board; does not apply to any right, etc., acquired prior to this act.
2. Emergency clause.

CHAP. 87.—[H. B. No. 236.] An act to make valid and confirm contracts of sale made by the Land Board of the State of Texas, with divers persons for the sale of the free school, university and asylum lands of the State of Texas sold under the act of the legislature of the State of Texas, approved April 12th, 1883.

Whereas, the land board of the State of Texas, duly appointed for that purpose did make contracts under the act of April 12th, 1883, for the sale to divers persons of the free school, university and asylum lands of this State; and,

Whereas, many of such persons acting in good faith believing that the said contracts were valid and binding and secured to them the right to acquire valid titles to said lands by a compliance with said act, have paid to the State a part of the purchase price of the said lands and the interest on the amount of said contract price for several years; and,

Whereas, it has been found that said contracts have been made by said land board, in many instances, without a strict compliance with the requirements of the said law whereby the said contracts are rendered invalid and said purchasers have failed to acquire any right under the purchases and contracts so made; and,

Whereas, it is inequitable and unjust that the said parties so acting in good faith, and who have complied with the requirements of said act should be deprived of their equities, so intended to be acquired, and which the State in good faith intended to confer upon them by reason of the failure of said land board to comply with said law, and thus lose the benefit of what they have paid on said contracts, and be deprived of said lands: therefore,

Section 1. Be it enacted by the Legislature of the State of Texas: That the failure of the land board to comply with the requirements of the act of April 12th, 1883, in placing the free school, university and asylum lands of the State upon the market or in selling the same shall not have the effect to render invalid the right, title or claim of any purchaser of such lands under any contract made with said land board, and in any case in which such purchaser bought but one section of land or who bought not exceeding three sections where the rules and regulations of the land board permitted the purchase of three sections and actually settled upon the same in good faith for the purpose of becoming a bona fide settler thereon and has complied with the requirements of the said act of April 12th, 1883, the rules and regulations of the land board and the terms of the contract made with such land board, or where such purchaser has complied with the law in such particulars as the rules and

regulations of the land board conflicted with said act. But this act shall not affect the right, title or claim of any person, who has by subsequent purchase from the State, or by contract with any officer authorized to make the same, acquired any right in said land prior to the passage of this act.

Sec. 2. The unsettled condition of titles to lands aforesaid, and the injustice to many citizens that has or may occur from the failure of said land board to comply with the requirements of said law in making said sales, creates an imperative public necessity and an emergency which authorizes the suspension of the constitutional rule requiring bills to be read on three several days, and the said rule is hereby suspended, and that this take effect from and after its passage, and it is so enacted.

[Note.—The foregoing act originated in the House and passed the same by a vote of 78 yeas and 6 nays; and passed the Senate by a vote of 27 yeas and 4 nays.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the second day of April A. D. 1891, and was not signed by him, nor returned to the house in which it originated with his objections thereto; nor were any objections thereto filed by him in this office after adjournment of the Legislature, within the time prescribed by the constitution. This act thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

BRIDGES.

Sec. 1. Amends chapter 1, article 13, Penal Code, as to fast riding and driving on bridges.

CHAP. 88.—[H. B. No. 473.] An act to amend chapter 1, article 13 of the Penal Code, by adding thereto Article 405a.

Section 1. Be it enacted by the Legislature of the State of Texas: That chapter 1, article 13, of the Penal Code of the State of Texas be amended by adding thereto article 405a to read as follows:

Article 405a. If any shall person ride or drive over any bridge belonging to any county, or to any municipal or private corporation, faster than a walk, he shall be fined in any sum not exceeding one hundred dollars.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the third day of April, A. D. 1891, and was not signed by him nor returned to the house in which it originated with his objections thereto; nor were any objections thereto filed by him in this office after adjournment of the Legislature, within the time prescribed by the constitution. This act thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

McCULLOCH COUNTY—JURISDICTION OF COUNTY COURT RESTORED.

Sec.

1. Original and concurrent jurisdiction of county court in civil cases.
2. Appellate jurisdiction of county court; certiorari.
3. County judge may issue writs of mandamus, injunction, etc.
4. Forfeiture of bonds and recognizances.
5. Jurisdiction of county court in criminal cases.

Sec.

6. Jurisdiction of district court; transcripts of dockets.
7. Terms of county court; process; cases transferred to be appearance cases.
8. Probate jurisdiction of county court.
9. Repealing clause.
10. Emergency clause.

CHAP. 89.—[H. B. No. 387.] An Act to restore and confer upon the county court of McCulloch county the civil jurisdiction heretofore belonging to said county under the constitution and general statutes of the State, and to conform the jurisdiction of the District Courts of said County to such change.

Section 1. Be it enacted by the Legislature of the State of Texas: That the county court of McCulloch county shall hereafter have exclusive original jurisdiction in civil cases where the matter in controversy shall exceed in value two hundred dollars and shall not exceed five hundred dollars exclusive of interest; and shall have concurrent jurisdiction with the district court of said county when the matter in controversy shall exceed five hundred dollars and not exceed one thousand dollars.

Sec. 2. Said county court shall have appellate jurisdiction in civil cases over which justices courts have original jurisdiction when the judgment of the court appealed from or the amount in controversy shall exceed twenty dollars, and said county court shall have power to hear and determine cases brought up from the justices courts by certiorari under the provisions of the title of the Revised Civil Statutes relating thereto.

Sec. 3. The county judge of said county shall have authority, either in term time or in vacation to grant writs of mandamus, injunction, sequestration, garnishment, attachment, certiorari, supersedeas and all other writs necessary to the enforcement of the jurisdiction of said court, and shall also have power to issue writs of habeas corpus in all cases in which the constitution has not exclusively conferred the power on the District court or Judge thereof.

Sec. 4. Said county court shall have jurisdiction in the forfeiture and judgment of all bonds and recognizances taken in criminal cases of which criminal cases said court has jurisdiction.

Sec. 5. Said county court shall have exclusive original jurisdiction of all misdemeanors except misdemeanors involving official misconduct, and except cases in which the highest penalty of fine that may be imposed under the law may not exceed two hundred dollars, and said court shall have also appellate jurisdiction in criminal cases of which justices of the peace and other inferior tribunals of said county have original jurisdiction.

Sec. 6. The District Court of McCulloch county shall no longer have jurisdiction in cases in which the county court of said county by the provisions of this act have exclusive original or appellate jurisdiction, and it shall be the duty of the clerk of the District Court of said county, within thirty days from the passage of this act, to make a full and complete transcript of all orders on his docket in cases now pending before said District Court, of which cases by the terms of this act exclusive jurisdiction is given to the county court, and to deliver said transcript, together with the original papers and certified bill of costs, to the clerk of said county court, and said county clerk shall enter said case or cases on his docket for trial by said county court.

Sec. 7. The county court of said county shall hereafter hold its regular terms for civil or criminal business as provided in the constitution and general laws of the State, and process heretofore issued from the District Court of said county in cases to be transferred under this act to the county court shall be returnable to the first term of the county court, and all civil cases transferred shall be entered as appearance cases upon the docket of said county court.

Sec. 8. The county court of said McCulloch county shall have, as now, the general jurisdiction of probate courts for the probate of wills, appointment of guardians of minors, idiots and lunatics, persons non compos mentis and common drunkards, and for the issuance of letters testamentary and administration, settlement of accounts of administrators and guardians, and the settlement and distribution of decedents estates, and the apprenticeship of minors, and all other necessary powers conferred by law on courts of probate.

Sec. 9. All laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed, and that this act take effect and be in force from and after its passage, and it is so enacted.

Sec. 10. The great necessity for this law creates an imperative public necessity and emergency requires the constitutional rule that bills be read on three several days in each house be suspended, and the same is therefore suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act originated in the House, and passed the same by a vote of 79 yeas and no nays; and passed the Senate by a vote of 24 yeas and no nays.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the third day of April, A. D. 1891, and was not signed by him nor returned to the house in which it originated with his objections thereto; nor were any objections thereto filed by him in this office after the adjournment of the Legislature, within the time prescribed by the constitution. This act thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

PUBLIC EDUCATION.

Sec.

1. Trustees of towns incorporated for school purposes only, may levy a tax for buildings and sites; coupon bonds; election.
2. Election, when and how ordered.

Sec.

3. Notice of election, how given.
4. Qualification of electors; form of ballots; returns.
5. Emergency clause.

CHAP. 90.—[S. B. No. 92.] An Act to authorize towns and villages incorporated for free school purposes only to levy taxes and issue bonds for free school purposes.

Section 1. Be it enacted by the Legislature of the State of Texas: That trustees of towns and villages that have been or may hereafter be incorporated for school purposes only, under act of the seventeenth Legislature, approved April 6, A. D. 1881, shall have power to levy and collect an annual ad valorem tax of twenty-five cents on the one hundred dollars valuation of taxable property, for the purpose of constructing or purchasing public free school buildings and sites therefor, within the limits of such incorporated district, and said trustees shall have power to issue coupon bonds of the town or village therefor to be made payable

at a date not exceeding twenty years from date in such sums as they shall deem expedient; to bear interest not to exceed six per cent per annum. Provided, that the aggregate amount of bonds issued for the above named purposes, shall never reach an amount when the tax of one-fourth of one per cent per annum will not pay current interest and provide a sinking fund sufficient to pay the principal at maturity; and provided further, that no such tax shall be levied and no such bonds shall be issued until an election shall have been held for the purpose of determining said question, whereat two-thirds of the tax payers voting at said election shall have voted in favor of the levying of said tax or the issuance of said bonds, or both, as the case may be.

Sec. 2. The election provided for in the preceding section may be ordered by the trustees on the written petition of at least twenty tax paying voters of said towns or villages at any time not less than thirty days from the date of the order, which order shall state the date and place when said election shall be held, the amount of tax to be levied, or the amount of bonds to be issued as the case may be, and the trustees shall also name and appoint therein the manager or managers of said election, which shall be held as nearly as may be possible in conformity with the general election law of the State. Provided, that when a proposition to levy such a tax shall be defeated, no election for that purpose shall be ordered until after the expiration of one year.

Sec. 3. Public notice of said election shall be given by the said trustees by placing notices of the same in three different portions of such incorporated district at least twenty days before said election, which notice shall state the time and place of the election, and the amount of the tax to be levied or the amount of bonds to be issued or both, as the case may be.

Sec. 4. No person shall vote at said election unless he be a qualified voter under the constitution and laws of this State, and a tax payer in such incorporated district, and those in favor of the levying of such tax or the issuance of such bonds, shall write or print upon their ballots: "For the tax," and those against the levying of such tax or the issuance of such bonds, shall write or print on their ballots: "Against the tax;" and due returns thereof shall be made to said trustees within ten days, and the result thereof to be recorded by the said trustees in a well bound book to be kept for that purpose.

Sec. 5. The fact that towns and villages incorporated for school purposes only, have no power under the law to issue bonds for the building of school houses, and the fact that there are many towns and villages in the state that wish to issue bonds for the purpose of erecting school houses, creates an emergency and an imperative public necessity requiring the suspension of the constitutional rule requiring bills to be read on three several days, and said rule is hereby suspended and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act originated in the Senate and passed the same—vote not given; and passed the House by a vote of 75 yeas and 7 nays.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the seventh day of April, A. D. 1891, and was not signed by him nor returned to the house in which it originated with his objections thereto; nor were any objections thereto filed by him in this office after adjournment of the Legislature, within the time prescribed by the constitution. This act thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

TAXATION—CITIES AND TOWNS.

Sec.

1. Amends article 425c, chapter 55, R. S.
Article 425c. Amount of ad valorem
tax authorized, and purposes for

Sec.

- which levied; issuance of coupon
bonds.
2. Emergency clause.

CHAP. 91.—[S. B. No. 316.] An Act to amend an act entitled "An Act to amend article 425c, chapter 55 of the Revised Civil Statutes of the State of Texas, as passed by the Twentieth Legislature of the State of Texas by an act approved March 23, 1887, to authorize cities and towns to levy and collect taxes for the construction of public buildings, water works, sewers, improvements of roads and bridges, streets and other permanent improvements, to issue bonds therefor and repeal all laws in conflict therewith and declaring an emergency.

Section 1. Be it enacted by the Legislature of the State of Texas: That article 425c, chapter 55 of the Revised Civil Statutes be so amended as to hereafter read as follows:

Article 425c. The city or town council of any city or town in this State incorporated under the general laws, shall have the power by ordinance to levy and collect an annual ad valorem tax sufficient to meet the interest and sinking fund on all indebtedness legally incurred prior to the adoption of the constitutional amendment in 1883, regarding the power of cities and towns to levy and collect taxes, etc., and may levy and collect twenty-five cents on the one hundred dollars valuation of all property in such city or town for current expenses and may levy and collect an additional twenty-five cents on the one hundred dollars valuation, for the purpose of construction or the purchase of public buildings, water works, sewers, street improvements and other permanent improvements within the limits of such city or town, and all cities and towns providing for such improvements shall have the power to issue coupon bonds of the city therefor in such sum or sums as they may deem expedient, to bear interest not exceeding six per cent per annum; provided, that the aggregate amount of bonds issued for the above named purposes shall never reach an amount where the tax of one fourth of one per cent will not pay current interest and provide a sinking fund sufficient to pay the principal at maturity, and the amount of bonds legally issued under acts passed prior to the adoption of the present constitution shall not be computed and estimated in the amount of bonds which may be issued for the above named city improvements. Within the meaning of this act shall be included building sites and buildings for the public free schools and institutions of learning, within those which have assumed or may assume hereafter the exclusive control and management of the public free schools and institutions of learning within their limits, and shall also have power to levy by ordinance a tax not exceeding fifteen cents on the one hundred dollars for the improvement of the roads, bridges and streets of such town or city within its limits as provided by the amendment of 1883, to the constitution of this State.

Sec. 2. Whereas, there is no law in this state putting in operation the provisions of the amendment of 1883, of the constitution of this state, permitting towns and cities incorporated under the general laws of this state to levy and collect fifteen cents on the one hundred dollars for road, streets and bridge purposes, and

Whereas, the cities and towns have levied and are trying to collect such tax, and the same is necessary for the betterment of such roads, streets and bridges, therefore an emergency and public necessity exists that the constitutional rule requiring bills to be read on three several days

should be suspended and that this act take effect and be in force from and after its passage.

[Note.—The foregoing act originated in the Senate and passed the same—vote not given; and passed the House by a vote of 81 yeas and 2 nays.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 8th day of April, A. D. 1891, and was not signed by him, nor returned to the house in which it originated with his objections thereto; nor were any objections thereto filed by him in this office after adjournment of the Legislature, within the time prescribed by the constitution. This act thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

EVIDENCE—ABSTRACTS OF LAND TITLES.

Sec.

1. Abstracts of titles compiled prior to 1877 evidence, when; affidavits; compensation to owners, when allowed; does not apply to suits now

Sec.

- pending, nor to deeds improperly recorded.
2. Emergency clause.

CHAP. 92.—[S. H. B. No. 136.] An act making abstracts of land titles or land title abstract books to lands in this State compiled from the records of any county in this State (prior to the year 1877) which said records were partially or wholly destroyed or lost from any cause (during the month of March 1876) competent (*prima facie*) evidence of the truth of the data or memoranda shown by such abstracts of land titles or land title abstract books, subject to certain conditions.

Section 1. Be it enacted by the Legislature of the State of Texas: That all abstracts of land titles or land abstract books to lands in this State compiled from the records of any county in this State, prior to the year 1877, which said records were partially or wholly destroyed or lost from any cause (during the month of March 1876) shall hereafter be competent (*prima facie*) evidence of the truth of the data or memoranda therein contained and compiled prior to the year 1877, and shall be admissible in evidence in the courts of this State, provided that the compiler of such abstracts of land titles or land title abstract books shall have made heretofore, or before offered in evidence, affidavit before some officer authorized at the time of making such affidavit to take acknowledgments to deeds in this State, and to the effect that said abstracts of land titles or land title abstract books were compiled by him from the records of the county prior to their destruction or loss and that they contain a true and correct statement of the matters and things to which they relate, and provided also that it shall be admissible to offer in evidence any testimony tending to discredit or substantiate the reliability of such abstract of land titles or land title abstract books or tending to show the compiler thereof to have been incompetent or unreliable, or competent and reliable; and provided further, that a copy of such abstract shall be filed in the papers of the cause in which it is sought to be used and notice given to the opposite party, at least five days before the trial and the same defenses may be made as if copies of the original record had been filed; provided further, that the party offering such abstracts of land titles or land title abstract books in evidence, shall himself or by his agent or attorney have made affidavit that the original instrument to which the said data or memorandum relates is not then on record, that he has made diligent search and inquiry for the same in places and from per-

sons where and in whose possession it would most probably be found and has been unable to find the same; that to his best knowledge and belief the same is lost or destroyed; and provided further that the owner of said abstracts of land titles or of land title abstract books shall have filed with the county Commissioners court, his application in writing (which may be granted or refused in the discretion of said court, and if refused, this act shall not become of force as to said application so refused) for an order of said court admitting to record in said court the contract of the said owner in writing wherein said owner shall bind himself, his heirs and assigns as follows: That said owner, his heirs or assigns, will, whenever requested in writing, setting forth the data required by any party to any suit interested in introducing said abstracts of land titles or land title abstract books, produce the same without charge on the day demanded for introducing in evidence, and upon the trial of any cause in this State; provided, that if said owner, his heirs or assigns, are required to produce said abstracts of land titles or land title abstract books in the courts of any other county than that to the lands of which said abstracts of land titles or land title abstract books pertain, they shall be by the party at whose instance such production is required, reasonably compensated in advance for the time and expenses of the said owner, his heirs or assigns. And the said owner in said contract, shall bind himself, his heirs and assigns, to answer in full, damages to any party damaged by the failure or default of the said owner, his heirs or assigns, without good cause, to produce said abstracts of land titles or land title abstract books, data or memoranda, when demanded as herein provided. And said contract shall further stipulate that no charge shall ever be made by said owner, his heirs or assigns, in excess of one dollar for each instrument or remove in any title in the compilation of a complete abstract or title to the lands in the county to which said abstracts of land titles or land title abstract books pertain, and that said owner, his heirs and assigns will upon request and payment of the fees therefor by any person, either make, compile and certify or cause to be made, compiled or certified, within a reasonable time, a complete abstract of title to any lands to which said abstracts of land titles or land title abstract books pertain. Provided that nothing herein contained shall ever be construed to any way effect or apply to any suit or suits now pending in any of the courts of this State. Provided further, that the provisions of this act shall not apply if it can be shown by competent evidence that any such deeds were improperly recorded.

Sec. 2. The great importance of this law to the people and the near approach of the close of the session creates an emergency and a public necessity exists requiring that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act originated in the House and passed the same by a vote of 76 yeas and 2 nays; and passed the Senate—vote not given.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the eighth day of April, A. D. 1891, and was not signed by him nor returned to the house in which it originated with his objections thereto: nor were any objections thereto filed by him in this office after adjournment of the Legislature, within the time prescribed by the constitution. This act thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

COSTS PAID BY THE STATE.

Sec.

1. Amends article 1054, Code of Criminal Procedure, as amended April 4, 1889.

Article 1054. Sheriffs' fees in felony cases, and when payable.

Sec.

2. Repealing clause.
Emergency clause.

CHAP. 93.—[S. S. B. No. 147.] An act to amend article 1054, chapter 2, title 15, of the Code of Criminal Procedure, as amended by an act of the twenty-first Legislature, approved April 4th, 1889.

Section 1. Be it enacted by the Legislature of the State of Texas: That article 1054, chapter 2, title 15, of the Code of Criminal Procedure of the State of Texas be so amended as to hereafter read as follows:

Article 1054. To the Sheriff or Constable shall be allowed the following fees in all cases when the charge is a felony, and all fees accruing under this article shall be due and payable at the close of each term of the district court after approval as herein provided, except as provided for in subdivisions 8 and 9, which shall be paid when approved by the Judge under whose order the writ was issued. Provided, that in all cases when the defendant shall be finally convicted of a misdemeanor the Sheriff shall be required to pay back to the Treasurer of the State a sum of money equal to the amount he may have received from the State in such case, and said Sheriff and his bondsmen shall be responsible to the State for such sum:

(1.) For executing each warrant of arrest or *capias*, or for making arrest without warrant when authorized by law, the sum of one dollar, and 5 cents for each mile actually and necessarily traveled in going to place of arrest, and for conveying the prisoner or prisoners to jail, mileage as provided for in subdivision 5, shall be allowed.

(2.) For summoning or attaching each witness, fifty cents.

(3.) For summoning jury in each case where jury is actually sworn in, two dollars.

(4.) *For executing death warrants, fifty dollars.

(5.) For removing a prisoner, for each mile going and coming, including guards and all other expenses when traveling by railroad, fifteen cents; when traveling otherwise than by railroad, twenty-five cents; provided that when more than one prisoner is moved at the same time in addition to the foregoing, he shall only be allowed ten cents a mile for each additional prisoner; provided further, that when an officer goes beyond the limits of the State after a fugitive on requisition of the Governor, he shall receive such compensation as the Governor shall allow for such service.

(6.) For each mile the officer may be compelled to travel in executing criminal process, summoning or attaching witnesses, five cents; provided that in no case shall he be allowed to duplicate his mileage when two or more witnesses are named in the same or different writs in any case, and he shall serve process on them in the same vicinity or neighborhood, or during the same trip, he shall not charge mileage for serving each witness to and from the county seat, but shall only charge one mileage, and for such additional miles only as are actually and necessarily traveled in summoning or attaching each additional witness. When process is sent by mail to any officer away from the county seat or returned by mail by such officer, he shall only be allowed to charge mileage for the miles actually traveled by him in executing such process, and the return of the officer shall show the character of the service and miles actually traveled in accordance with this subdivision, and his accounts shall show the facts

(7.) To officers for service of criminal process not otherwise provided for, the sum of five cents a mile going and returning shall be allowed. Provided, if two or more persons are mentioned in the same or different writs, the rule prescribed in subdivision six shall apply.

(8.) For conveying a witness attached by him to any court or grand jury, or in a habeas corpus proceedings, out of his county, or when directed by the Judge from any other county to the court where the case is pending, two dollars and fifty cents per day for each day actually and necessarily consumed in going to and returning from such court, and his actual necessary expenses by the nearest practicable route or nearest practicable public conveyance, the amount to be stated by him in an account which shall show the place at which the witness was attached, the distance to nearest railroad station, and miles actually traveled to reach the court; if horses or vehicles were used, from whom hired and price paid and length of time consumed, and amount paid out for feeding horses and to whom; if meals and lodgings were provided, from whom and when and price paid. Provided, that officers shall not be entitled to receive exceeding 50 cents per meal and 35 cents per night for lodging for any witness. Said account shall also show, before said officer shall be entitled to compensation for expenses of attached witnesses, that the witness was called upon by him to give bond, and was offered by him an opportunity to give bond to appear before the proper court and was unable or refused to do so. And the officer shall also present to the court the affidavit of the witness to the same effect, or shall show that the witness refused to make the affidavit; and should it appear to the court that the witness was able and willing to give bond, the Sheriff shall not be entitled to any compensation for conveying such witness, and said accounts shall be sworn to by the officer, before an officer authorized to administer oaths, and shall state that said account is true, just and correct in every particular, and present same to the Judge, who shall during such term of court carefully examine such account, and if found to be correct, in whole or in part, shall so certify, and allow the same for such an amount as he may find to be correct; and if by him allowed in whole or in part, he shall so certify; and such account, with the affidavit of the Sheriff and certificate of the Judge, shall be recorded by the clerk of the district court, in a book to be kept by him for that purpose, which shall constitute a part of the minutes or proceedings of the court; and the clerk shall certify to the original account, and shall show that the same has been so recorded; and said account shall then become due and the same shall constitute a voucher, on which the Comptroller is authorized to issue a warrant; and such minutes of the court, or a certified copy thereof, may be used in evidence against the officer making the affidavit, for perjury, in case said affidavit shall be willfully false. When the officer receiving a writ for the attachment of such witness shall take a bond for the appearance of any such witness, he shall be entitled to receive from the State \$1.00 for each bond so taken; but he shall be responsible to the court issuing said writ that said bond is in proper form and has been executed by the witness with one or more good or solvent securities, and said bond shall in no case be less than \$100. Provided, Comptroller may require from such officer a certified copy of all such process before auditing any account.

(9.) For attending a prisoner on habeas corpus, for each day \$2, together with mileage, as hereinbefore provided in subdivision 5, when

removing such prisoner out of the county under an order issued by a district or appellate Judge.

Sec. 2. All laws and parts of laws in conflict with this article are hereby repealed.

Whereas, the near approach of the close of the session creates an emergency, and there exists a public necessity for the suspension of the constitutional rule requiring bills to be read on three several days, and this this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act originated in the Senate and passed the same by a vote of 21 yeas and 7 nays; and passed the House by a vote of 71 yeas and 17 nays.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the eighth day of April, A. D. 1891, but was not signed by him nor returned to the house in which it originated with his objections thereto; nor were any objections thereto filed by him in this office after adjournment of the Legislature within the time prescribed by the constitution. This act thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

WOOL GROWING—PROTECTION OF.

Sec.

1. Inspector of sheep to be appointed, when; his qualifications; term of office; deputies.
2. Bond of inspector.
3. Duties of inspector.
4. Fees of inspector.
5. Duty of inspector where owners of sheep do not reside in the county, or have no fixed ranch.
6. Sheep found to have scab must be cured by owner within twenty days from inspection.

Sec.

7. Penalty for violation of this act by the inspector or deputy; vacancy to be filled by appointment by commissioners court.
8. Penalty for violation of this act by owners of sheep.
9. Woolgrowers may pay inspector additional fees, when.
10. Counties exempt from this act.
11. Repeals acts of April 4, 1883, and of February 20, 1885.
12. Emergency clause.

(HAP. 94.—[H. B. No. 461.] An act for the protection of the wool growing interests of the State of Texas, and to repeal chapter 54 of the acts of the eighteenth Legislature, approved April 4th, 1883, and chapter 14 of the acts of the nineteenth Legislature, approved February 20th, 1885.

Section 1. Be it enacted by the Legislature of the State of Texas: That whenever it appears from the Assessor's rolls of any county that there are as many as five hundred sheep owned and assessed for taxes in any county of this State, it shall be the duty of the Commissioners court of said county, upon the application of one or more resident owners of sheep of said county, to appoint an inspector of sheep, who shall be a resident citizen of such county, and well versed in the scab and diseases which usually affect sheep, and said inspector shall hold his office for two years or until his successor is appointed and qualified. Said inspector may appoint one or more deputies, who shall likewise be well versed in scab and other diseases of sheep, who shall take the oath of office prescribed by the constitution, and may lawfully perform the same acts as the inspector of sheep, and the inspector may require of his deputies so appointed bonds payable to himself for the faithful performance of their duty as such deputies.

Sec. 2. Said inspector of sheep shall, within twenty days after receiving notice of his appointment and before entering upon the duties of his office, execute a bond with two or more good and sufficient sureties, in a

sum to be fixed by the Commissioners court, not less than one thousand nor more than five thousand dollars, payable to the County Judge and his successors in office, conditioned that he will faithfully and impartially discharge and perform all the duties incumbent upon him as inspector of sheep. Said bond shall be approved by the Commissioners court and be recorded in the office of the County Clerk of the county as other official bonds.

Sec. 3. It shall be the duty of the inspector of sheep or his deputy, to carefully and minutely examine and inspect at any time, sheep in his county or which may be driven into or through his county, and which he has reason to believe, or is informed in writing by any one or more sheep owners of his county, or of any adjacent and contiguous county, is affected with scab or any other infectious or contagious disease; and when one or more sheep affected with scab are found in any flock so inspected, the entire flock shall be condemned by said inspector or deputy and considered as affected with said disease.

Sec. 4. The inspector shall be entitled to receive the sum of two cents per head, unless otherwise provided in this act, for all sheep inspected and condemned under the provisions of this act; provided, the inspector shall be entitled to receive only one cent per head of any number he may inspect for any one person, in excess of two thousand head. In no one case shall his fee exceed fifty dollars; such fee to be paid by the owner or person in charge of the sheep so inspected and condemned; provided that when an inspector shall inspect any sheep and find no scab to exist in the flock of sheep so inspected, then the fees for such service shall be paid by the person at whose instance such inspection was made; and provided further, that the inspector shall have a lien upon all sheep so inspected and condemned by him for his fees as provided in this section. Provided further, that if any owner or person in charge of sheep affected with scab or other contagious disease shall report the same in writing to said inspector or his deputy, and that he proposes to take means forthwith to cure such disease, it shall not be lawful for the inspector to inspect such flock within twenty days after such report; provided, that if, after the expiration of the twenty days aforesaid, the said sheep have not been thoroughly cured, then the said sheep shall be subject to inspection as hereinbefore provided.

Sec. 5. It shall be the duty of the inspector of sheep or his deputy to arrest and take in charge any flock or flocks of sheep, the property of owners who do not reside in his county, or have no certain or fixed ranch therein, found traveling through his county, and found after inspection to be affected with scab, and to hold and dip said sheep at the cost of the owner or person in charge of such flock or flocks, until the same shall be cured; and said inspector shall be entitled to recover from the owner or person in charge of such flock or flocks of sheep so held by him, the sum of two dollars per day as compensation for holding such sheep, in excess of inspection fees provided for in section 4 of this act; and said inspector shall have a lien upon all sheep so held by him until all fees and expenses for holding and dipping incurred by him are paid, provided that said inspector shall not in any case hold said flock or flocks of sheep exceeding twenty days.

Sec. 6. Whenever any flock of sheep in any county in this State has been inspected as provided for in this act, and found to be affected with scab, it shall be the duty of the owner or person in charge of such flock, to thoroughly cure the same within twenty days from said inspection.

Sec. 7. Any inspector of sheep or his deputy who shall fail to comply with any of the provisions of this act, or who shall willfully, or with intent to harrass, vex or put to expense any owner or person in charge of sheep, notify such owner or person in charge that his flock is diseased, or who shall unlawfully demand or receive any fee or compensation where none is allowed by law, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than fifty nor more than two hundred dollars, and thereupon the office shall be deemed vacant, and the Commissioners court may appoint another inspector for such county.

Sec. 8. Any owner or person in charge of sheep who shall willfully and knowingly violate any of the provisions of this act, when the penalty is not otherwise provided by this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than fifty nor more than two hundred dollars.

Sec. 9. Whenever in any county in this State there shall not be sufficient scab or other contagious and infectious diseases among the sheep to pay the sheep inspector a fair remuneration, under the fees provided by this act, it shall be lawful for any association of wool growers in such county to pay such inspector such additional sums of money as to them may seem right and proper in order to keep such inspector in the performance of the duties of his office.

Sec. 10. The counties of Grayson, Freestone, Gonzales, Morris, Titus, Cass, Marion, Bowie, Red River, Trinity, San Jacinto, Polk, Anderson, Van Zandt, Cameron, Collin, Colorado, Grimes, Houston, Webb, Encinal, Hunt, Hopkins, Ellis, Dallas, Rockwall, Denton, Fannin, Henderson, Brazos, Smith, Panola, Gregg, Lamar, Wood, Raines, Limestone, Cook, Brown, Comanche, Cherokee, Mills, Montgomery, Shelby, Lee, Burleson, Rusk, Lavaca, Milam, Wise, Upshur, Robertson, Camp, Parker, Franklin, Navarro, Karnes, Wilson, Atascosa, Harrison, San Augustine, Sabine, Fayette, Austin, Leon, Madison, Hill, Bosque, Waller, Fort Bend, Washington, Guadalupe, Caldwell, Hayes, Tarrant, Johnson, Clay, Montague, Erath, Hood, Somerville, Bastrop, Harris, Harrison, Camp, Orange, Jefferson, Hardin, Liberty, Chambers, Newton, Tyler, Jasper, Kaufman, Nacogdoches, DeWitt, Victoria, Jackson, Calhoun, Refugia, Goliad, and Aransas counties are exempted from the provisions of this act.

Sec. 11. That chapter 54 of the acts of the eighteenth Legislature, entitled "an act for the protection of the wool growing interests of the State of Texas," approved April 4th, 1883, and chapter 14 of the acts of the nineteenth Legislature, entitled "an act to amend sections 4 and 16 of an act entitled 'an act for the protection of the wool growing interests of the State of Texas; approved April 4th, 1883,' approved February 20, 1885," be and the same are hereby repealed.

Sec. 12. The fact that there is now no adequate protection to wool-growers against contagious diseases, and the near approach of the close of this session creates an emergency and public necessity requiring that the constitutional rule requiring bills to be read on three several days in each house be suspended and it is so suspended.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 8th day of April, A. D. 1891, but was not signed by him, nor returned to the house in which it originated with his objections thereto; nor were any objections thereto filed by him in this office after adjournment of the Legislature, within the time prescribed by the constitution. This act thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

PUBLIC SCHOOL TEXT BOOKS.

Sec.

1. Board of education and State superintendent to adopt uniform series of text books; series to include what; quality.
2. Shall advertise for sealed proposals for furnishing books; deposit required; deposit forfeited, when; bids to be deposited with Comptroller; proceedings when bid is accepted; exchange of books; bond of contractor.
3. Duty of board in passing on proposals; changes of books; price to be printed on the books.
4. State not liable to contractor; right to terminate the contract.
5. When the board shall have entered into contract for books, the Governor shall issue proclamation; samples of books to be kept.
6. State depository and county agen-

Sec.

- cles; suit on contractor's bond, when authorized.
7. Superintendent to address circular to county superintendents and presidents of school boards.
8. Regulations for distribution of books.
9. Uniform series adopted to be used in the schools.
10. Penalty for violation of this act.
11. Patrons may procure books when none are furnished under contract.
12. Superintendent may employ one additional clerk.
13. Appropriations for carrying out this act.
14. Cities and towns exempt from this act prior to September 1, 1892.
15. Report of State board to the Governor.
16. Emergency clause.

CHAP. 95.—[S. B. No. 2.] An act to empower the State Board of Education to procure for use in the public free schools of the State of Texas a series of text books, defining the duties of certain officers therein named with reference thereto, making appropriations therefor, defining certain misdemeanors, providing penalties for the violation of the provisions of this act, and declaring an emergency.

Section 1. The State board of education, together with the State Superintendent of public instruction, shall constitute a board for the purpose of adopting a uniform system of text books for the use of the public free schools of this State, and for the further purpose of executing the provisions of this act. Said board is hereby authorized to select and adopt a uniform series of text books for the purpose above indicated. Said series to include the following branches of study, to wit: Spelling, reading, English grammar, geography, arithmetic, the elements of physiology and hygiene, and history of the United States and a graded series of writing books; provided nothing of a sectional, partisan or sectarian character shall be contained in said books. Provided, that the books adopted shall be at least equal in size and quality as to subject matter, material, style of binding and mechanical execution, to books now in use in the public free schools of this State.

Sec. 2. That said board shall immediately upon taking effect of this act, advertise for such time and in such manner as they deem best to obtain the desired information, that at a time and place to be fixed by said notice, and not later than two months after the first publication thereof, said Board will receive sealed proposals as follows: From the publishers of school text books for furnishing books to the schools of the State through agencies established by said publishers in the several counties of the State as may be provided for in such regulations as the said Board may adopt. No bid from any publisher shall be entertained by said Board made for a less period of time than five years. Said bid or bids shall state specifically at what price each book will be furnished, and shall be accompanied with specimen copies of each and all books proposed to be furnished; provided it shall be required of the bidders to deposit with the Treasurer of the State such sum of money as the Board may require not less than \$500, and no more than \$2500, according to the number of books each bidder may propose to supply. Such deposit shall be forfeited to the State absolutely if such bidder so depositing any sum shall fail to make and execute such contract and bond as is herein required, within such time as the Board may require, which time shall be stated in the notice advertised. All bids shall be deposited sealed with the Comptroller of the State; to be by him delivered to the Board when they are in session for the purpose of considering the same when they shall be

opened in the presence of the Board. Whenever any person has been awarded a contract, and filed his bond and contract with the board, the said Board shall make an order on the Treasurer of the State, reciting such fact, whereupon the Treasurer shall return the deposit of such successful bidder; but if any such successful bidder shall fail to make and execute the contract and bond as hereinbefore required, the Treasurer shall place such special deposit in the State Treasury to the credit of the available school fund, and the Board shall readvertise, if they conclude to do so, for other bidders to supply such books, which the successful bidder may have failed to supply. All unsuccessful bidders shall have their special deposits returned to them as soon as the board has decided not to accept their bids. All books selected and adopted by the board shall be printed or written in English. The Board may stipulate in the contract for supplying books as herein provided that the contractor or contractors shall exchange the contract books for all books actually in use, and for which purpose the value of the books in use shall be deducted from the contract price of the new books provided. The successful bidder to supply any books, who may have awarded to him or them any contract, shall, within the time fixed by the Board, enter into contract, and shall make and execute a good and sufficient bond, payable to the State of Texas, and in the sum of not less than \$10,000, signed by not less than three solvent sureties, who shall be residents of the State of Texas, to be approved by the Governor, which said bond may be put in suit at any time upon suggestion of the Board. Such bond shall be conditioned that the contractor or contractors shall faithfully and honestly perform the conditions of the contract. Said contract and bond shall be prepared by the Attorney General and be made to conform to the requirements of this act.

Sec. 3. It shall be the duty of said Board to meet at the time and place mentioned in such notice and open and examine all sealed proposals received pursuant to the notice provided for in section 2, of this act; and it shall be the further duty of said Board to make a full, complete and thorough investigation of all such bids, and to ascertain under which of said bids the school books could be furnished to the people of this State for common school use at the lowest price, taking into consideration the size and quality as to matter, material, style of binding and mechanical execution of such books. And in case of failure to comply with said contract, the Board may cancel the contract so broken. Provided that the Board and the contractor agreeing to furnish the books may by agreement make such changes of the books to be furnished as the Board may deem proper, and to the interests of the State. And it is further provided that the contract price of each book shall be plainly printed on the back of each book by the publisher or the party furnishing the same.

Sec. 4. It shall be part of the terms and conditions of every contract made in pursuance of this act that the State of Texas shall not be liable to any contractor hereunder for any sum whatever, but all such contractors shall receive their pay and compensation solely and exclusively from the proceeds of the sale of books as provided for in this act. And it is hereby provided that the State shall have the right to terminate said contract whenever the law is repealed, or so amended, altered or qualified as to make necessary or expedient that such contract should be revoked, and the contract shall contain a stipulation to that effect.

Sec. 5. As soon as such board shall have entered into any contract for the furnishing of books for use in the public free schools of this State,

pursuant to the provisions of this act, it shall be the duty of the Governor to issue his proclamation announcing such fact to the people of the State. And it is further provided that the Board shall carefully label and file away all sample copies of the books so furnished as heretofore provided and for which a contract shall have been entered into as herein specified, which shall be securely kept as the standard of quality and excellence to be maintained in such books, during the continuance of said contract.

Sec. 6. The party with whom such contract has been made shall establish and maintain in some city in this State, to be designated by the board a depository where a stock of their books sufficient to supply all immediate demands shall be kept. It shall also establish and maintain one or more agencies in every county in the State, one of which shall be at the county seat. At such agencies, books shall be sold at the retail contract price together with the following notice: "The price fixed hereon is fixed by the State contract. Any deviation should be reported to the State Superintendent of public instruction at Austin." And it is provided that upon the failure of the party contracting to furnish the books for the schools of this State as provided for under this act, the County Judge may in the name of the State of Texas, sue in the district court of his county and recover on the bond given by the contractor under this act for the full value of the books so failed to be furnished for the use and benefit of the schools of his county, and the amount so recovered shall be placed to the credit of the available school fund in the county so recovering it. And it is further provided, that unorganized counties shall be furnished books through the same agency of the county to which said unorganized county may be attached for judicial purposes in the same manner that such organized county obtained the books used therein.

Sec. 7. As soon as may be practicable after the adoption provided for in this act, the State Superintendent of public instruction shall address a circular letter to the county Superintendents, and the Presidents of School Boards in independent school districts, which letter shall contain a list of the books adopted, the prices, method of distribution and such other information as he may deem necessary.

Sec. 8. The Board may from time to time make necessary regulations, not contrary to the provisions of this act, to secure the prompt distribution of the books herein provided for.

Sec. 9. After September 1, 1891, or as soon thereafter as the board may deem practicable, the books adopted by the board as a uniform series of text books for this State shall be introduced and used as text books to the exclusion of all others in the public free schools. Provided nothing herein shall be construed to prevent the use of supplementary books.

Sec. 10. Any teacher or trustee who shall violate the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than ten nor more than fifty dollars for each offense, and every day of such violation shall be considered a separate offense.

Sec. 11. Nothing in this act shall be construed to prevent or prohibit the patrons of the public schools throughout the State from procuring books in the usual way in case no contract should be made, or the contractor fails or refuses to furnish the books provided for in this act at the time required for their use in the respective schools.

Sec. 12. The Superintendent of public instruction is hereby authorized to employ one additional clerk at a salary of not more than \$1200 per annum for the purpose of carrying out the provisions of this act, said clerk to be paid in such manner as other employes in his office.

Sec. 13. The sum of two thousand dollars, or so much thereof as may be necessary, is hereby appropriated, out of any funds in the State treasury not otherwise appropriated, for the purpose of paying the cost and expense incident to the giving notices herein provided for and otherwise carrying out the provisions of this act.

Sec. 14. Any city or town which has assumed control of its schools, and which has already adopted a uniform system of text books, shall not be required to comply with the provisions of this act, prior to the first of September, 1892.

Sec. 15. The State Board shall prepare and submit to the Governor before the twenty-third Legislature shall convene, a report wherein they shall discuss the feasibility of State publication of common school text books, and submit estimates as to the probable cost to the State of such publication.

Sec. 16. The fact that many publishers of school books have entered into combinations and conspiracies against competition, rendering it impossible to procure school books at fair and reasonable prices, and the further fact that it is important that cheap books should be had for the scholastic year of 1891 and 1892, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act originated in the Senate and passed the same by a vote of 22 yeas and 6 nays, and passed the House by a vote of 59 yeas and 31 nays.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the eighth day of April, A. D. 1891, but was not signed by him nor returned to the house in which it originated with his objections thereto: nor were any objections thereto filed by him in this office after adjournment of the Legislature, within the time prescribed by the constitution. This act thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

COUNTY SCHOOL FUNDS.

Sec. 1. Amends section 47, chapter 25, laws of eighteenth legislature.

(47) County treasurers to be treasurers of available and permanent school funds; commissions; bonds; payment by collector to treasurer; receipts, etc.; apportionment of funds; unappropriated balances, etc.; white and colored schools to be maintained same length of time; repealing clause.

Emergency clause.

CHAP. 96.—[S. B. No. 161.] An Act to amend section 47 of chapter 25 called session of the eighteenth Legislature, being an act to establish and maintain a system of public free schools for the State of Texas, and to repeal so much of chapter 3, of title 78, of the Revised Civil Statutes of Texas, as refer to public free schools outside of incorporated cities and towns assuming or having assumed control of their public free schools.

Section 1. Be it enacted by the Legislature of the State of Texas: That section 47 of chapter 25 special session of the eighteenth Legislature being an act to establish and maintain a system of public free schools for the State of Texas and to repeal so much of chapter 3, title 78, of the Revised Civil Statutes of Texas refer to public free schools outside of incorporated cities and towns assuming or having assumed control of their public schools be so amended as to hereafter read as follows:

Sec. 47. The treasurers of the several counties shall be treasurers of the available public free school fund and also of the permanent county school fund for their respective counties. The treasurers of the several counties shall be allowed for receiving and disbursing the school funds one-half of one per cent for receiving, and one-half of one per cent for disbursing. Said commissions to be paid out of the available school fund of the county; provided, no commissions shall be paid for receiving the balance transmitted to him by his predecessor, or for turning over the balance in his hands to his successor; and provided further that he shall receive no commissions on money transferred. Within twenty days after the receipt of a certificate of his election, it shall be the duty of the county treasurer to execute a bond with two or more good and sufficient sureties for the faithful performance of his duties under this chapter, said bond shall be in double the probable amount of available school fund and of the permanent county fund which may come into his hands to be estimated by the county superintendent, and shall be made payable and conditioned as prescribed in article 909, Revised Statutes of Texas. Upon the receipt of the certificate from the State board of education, duly countersigned by the comptroller, showing the pro rata of the available school fund to which his county is entitled under the apportionment, the county treasurer shall present the same to the Collector of taxes for his county, who shall pay to the county treasurer on the first day of each month all school taxes that have come into his hands during the preceding month until the Comptroller's coupon draft on the Collector is paid up. The treasurer shall endorse the amounts so paid by the Collector on the proper coupon, and shall also execute and deliver to the Collector duplicate receipts for such payments, and when the whole amount of such coupon shall have been paid the county treasurer shall deliver the same to the Collector in whose hands it shall be a voucher for so much money paid in his settlement with the Comptroller of Public Accounts. In case the State school tax shall not suffice to pay off the apportionment to the county, the county treasurer shall on receipt of notice from the State Superintendent of the amount which can be paid by the State Treasurer on the apportionment to his county, enter upon proper coupon the amount so signified and present the same for collection to the Comptroller of Public Accounts. When the entire amount of the

apportionment to the county shall have been paid, the county treasurer shall deliver the certificate of apportionment receipted in full to the State Treasurer. The County Treasurer upon receiving notice from the State Superintendent of the amount apportioned to his county shall report the same to the County Superintendent, who shall immediately apportion the same to the several districts and school communities according to the scholastic census, and the County Superintendent shall immediately notify the County Treasurer of the amount apportioned to each district and school community. It shall also be the duty of the County Treasurer to keep a separate account with each district and school community showing the amount apportioned according to the certificate of apportionment, the amount set apart monthly to the credit of each district and school community by the County Superintendent, and the amount paid out to each school and district and school communities; provided, in no case shall the County Treasurer pay out any part of the school fund without the approval of the County Superintendent. All balances of the general fund not appropriated for the current year shall be carried over by the treasurer as part of the general fund for the county for the succeeding year, and balances unexpended or appropriated for a school community or a district shall be carried over for the benefit of such school community or district if the community be reorganized for the following year, and if it be not reorganized shall be added to the general fund for distribution for the general benefit of the county at large. All schools both white and colored in the same district and school communities shall be maintained the same length of time as near as may be. All laws and parts of laws in conflict with this act are hereby repealed.

Whereas the present bill intends to prevent county treasurers from collecting double the fees allowed them by law on school funds and the further fact that the present session of the Legislature is rapidly drawing to a close create an emergency and an imperative public necessity requiring the constitutional rule for bills to be read on three several days to be suspended, and said rule is hereby suspended, and this act shall take effect from and after its passage and it is so enacted.

[Note.—The foregoing act originated in the Senate and passed the same by a vote of 26 yeas and no nays; and passed the House by a vote of 84 yeas and 1 nay.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the ninth day of April, A. D. 1891, and was not signed by him nor returned to the house in which it originated with his objections thereto; nor were any objections thereto filed by him in this office after adjournment of the Legislature within the time prescribed by the constitution. This act thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

ROADS.

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| <p>Sec.</p> <ol style="list-style-type: none"> 1. Commissioners court shall appoint some road superintendent for county, or one for each precinct. 2. Commissioners court to determine whether there shall be one county superintendent or four precinct superintendents. 3. Oath and bond of superintendent; recovery on bond. 4. Qualification of superintendent; term of office; salary; may be suspended, when; removal from office; vacancy in office, how filled. 5. Salary of road superintendent. 6. Duties of road superintendent; liability for property in his possession. 7. Other duties of road superintendent. 8. Superintendent to divide county into road districts; record required to be kept. 9. Power of superintendent to summon hands; may appoint deputy; may contract for use of teams. 10. Reports of road superintendent. 11. Commissioners court authorized to hire necessary machinery, tools, etc., and to make rules for working road; power to change road. 12. Superintendent shall employ sufficient force, and purchase machinery, tools, etc., and do the work under direction of commissioners court. 13. Superintendent to give certificates for payment for labor, tools, etc.; requisites of certificates; how paid; liability of superintendent's sureties. | <p>Sec.</p> <ol style="list-style-type: none"> 14. Commissioners court may let contract for work; advertisement for bids; bond of contractor; appropriation. 15. Commissioners court may require labor of convicts; credits on fine and costs; payment of costs due officers, how made; commutation of time of convicts. 16. Commissioners court may accept donations of property and labor to aid in working roads; may authorize any person to make a drain. 17. System of working hands under road overseers may be retained. 18. Method of work in counties where special road tax is levied. 19. Accounts of superintendent, and payment of moneys collected by him. 20. Penalty for failure or refusal of any person summoned to work. 21. Penalty against superintendent for failure to comply with provisions of this act. 22. Penalty for injury to any bridge, culvert, drain, etc. 23. Delinquent poll tax payers subject to road duty; requirement is cumulative, penalty. 24. Terms "road," "work" and "working" defined. 25. This act cumulative of general laws. 26. Counties exempt from this act; commissioners courts of Dallas and Collin counties may accept this law. 27. Emergency clause. |
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CHAP. 97.—[S. H. B. Nos. 33, 238, 296, and S. B. No. 5.] An act to create a more efficient road system for the several counties of this State, authorizing the appointment of road superintendents, defining their duties and prescribing penalties for their failure to perform their duties, and further defining the powers and duties of the commissioners courts in the counties in which the provisions of this act are adopted, and providing who shall be subject to road duty.

Section 1. Be it enacted by the Legislature of the State of Texas: That the commissioners court of any county in this State may appoint one road superintendent for such county, or one superintendent in each commissioners precinct, and such courts are authorized by an order made at any regular term thereof to determine whether there shall be one road superintendent for the county or one for each of the commissioners precincts therein. Such order shall be entered on the minutes of such court and shall not be void for want of form, but a substantial compliance with the provisions of this act shall be sufficient. Provided no county shall be under the operation of this act whose commissioners court does not appoint a road superintendent or superintendents as herein provided.

Sec. 2. In case such commissioners court shall determine that there shall be one "road superintendent," as provided in the preceding section, such court shall appoint a competent "road superintendent" for such county, and in case it is determined that there shall be four superintendents, then such court shall appoint a competent person as "road superintendent" for each commissioners precinct in such county.

Sec. 3. Each "road superintendent" whether county or precinct, shall, within twenty days after his appointment, take and subscribe the oath required by the constitution, and enter into bond payable to the County Judge and his successors in office, with good and sufficient sureties to be approved by the County Judge, in such sum as may be fixed by the commissioners court, conditioned that he will faithfully do and perform all the duties required of him by law or the commissioners court, and that he will pay out and disburse the funds subject to his control as the law provides, or the commissioners court may direct, which bond shall be filed and recorded as other official bonds and shall not be void

for the first recovery, but may be sued on from time to time until the full amount is exhausted.

Sec. 4. Every road superintendent shall be a qualified voter in the county or precinct, as the case may be, for which he is appointed, and shall hold his office for two years or until his successor is appointed and qualified, but in all cases where the condition of the roads do not demand the continued services of the superintendent, his salary may, in the discretion of the commissioners court, be suspended. The commissioners court may for good cause remove any road superintendent, and in case of vacancy from any cause may appoint a successor who shall hold his office for the unexpired term.

Sec. 5. Each road superintendent shall receive such salary as may be fixed by the commissioners court to be paid on the order of said court at stated intervals, but the salary of the county superintendent, in counties of less than fifteen thousand inhabitants, shall never exceed one thousand dollars per annum, and in counties of more than fifteen thousand inhabitants, it shall not exceed twelve hundred dollars per annum. That the salary of precinct superintendents in counties of less than fifteen thousand inhabitants shall not exceed three hundred dollars per annum, and in counties of over fifteen thousand inhabitants it shall never exceed four hundred dollars per annum.

Sec. 6. The road superintendent, subject to the orders and directions of the commissioners court, shall have the general supervision over all the public roads and highways of his county or precinct, as the case may be, and shall superintend the laying out of new roads, the making and changing of roads therein, the building of bridges therein, (except where otherwise contracted) the working of the roads therein and all repairs to be made on the same, and over all county convicts worked on such roads, but this shall not prevent the commissioners court from employing a person to watch and manage such convicts and direct the work to be done by them. Said road superintendent shall take charge of all tools, machinery, implements and teams placed under his control by the commissioners court and execute his receipt therefor which shall be filed with the county clerk, and he shall be responsible for the safe keeping of all such machinery, tools, implements and teams, and the proper expenditure and paying out of all money belonging to the road fund that may come into his hands, and shall be liable for the loss, injury or destruction of any such tools, teams, implements or machinery unless such loss occurred without his fault, and for the wrongful or improper expenditure of any such money, and upon the expiration of his term of office, or in case of his resignation or removal, he shall deliver all such money and property to his successor or such other person as the commissioners court may direct.

Sec. 7. It shall be the duty of each road superintendent to see that all of the roads and bridges in his county or precinct, as the case may be, are kept in good repair, and he shall under the direction of the commissioners court, inaugurate and carry out a system of working, grading and draining the public roads in his county or precinct, and shall see that every person subject to road duty in his county or precinct performs the work to which he is liable under the law. He shall act as supervisor of the roads in his county or precinct, as the case may be, and perform all the duties as supervisor that now devolves on the county commissioners under the existing laws in counties not adopting this act,

and he shall do and perform such other service as may be required of him by the commissioners court.

Sec. 8. Each road superintendent in counties where the commissioners court so directs, as soon as practicable, shall divide his county or precinct, as the case may be, into road districts of convenient size to be approved by the commissioners court, and define the boundaries thereof and designate the same by number, which boundaries shall be recorded in the road minutes of the commissioners court. And he shall ascertain the names of all persons subject to road duty in each road district, and keep a record thereof and report the same to the commissioners court.

Sec. 9. Each road superintendent shall have power, and it shall be his duty to call out all persons liable to work on the public roads at any time and in such numbers as he may deem necessary to work the roads in their respective districts, and he shall utilize all such labor to the best advantage in connection with other labor on the roads. The call shall be summons served in the manner and for the length of time prescribed by the law regulating the calling out of hands by overseers, but no person shall be compelled to work outside of his road district. The road superintendent may appoint any person subject to road duty in any district to summon the hands to work the roads therein, and such person shall be exempt from road service as many days as he was actually engaged in summoning the hands, and in case of emergency he may appoint a deputy to supervise any particular work. He may also contract with any person subject to road duty, for the use of teams, and permit such person to discharge his road duty by the use of such double team; but he shall never allow more than two dollars per day for any team, nor more than three dollars for any hand and double team.

Sec. 10. Each road superintendent shall make a report, under oath, to the commissioners court, at each regular term thereof, showing an itemized account of all money belonging to the road fund he has received, from whom received, and what disposition he has made of the same, the condition of all roads and bridges in his county or precinct, as the case may be, and such other matters as the court may desire information upon; and shall make such other report at such times as such court may require.

Sec. 11. The commissioners court of any such county is authorized to purchase or hire all necessary road machinery, tools, implements, teams and labor required to grade, drain or repair the roads of such county, and said court is authorized and empowered to make all reasonable and necessary rules, orders and regulations not in conflict with law, for laying out, working and otherwise improving the public roads, and to utilize the labor and money expended thereon and to enforce the same. But no change in any road shall be made that lengthens the same without it is to the benefit of the traveling public or for the protection of private property, and then only upon the unanimous consent of the commissioners court.

Sec. 12. Each road superintendent shall employ sufficient force to enable him to do the necessary work in his county or precinct, as the case may be, having due regard for the condition of the county road and bridge fund and the quality and durability of the work to be done, and shall buy or hire such tools, teams, implements and machinery as the commissioners court may direct, and he shall work such roads in such manner as the commissioner may direct, and such work shall at all times be subject to the general supervision of the commissioners court.

Sec. 13. Each road superintendent shall make the best contract pos-

sible for all labor, tools, implements or machinery that he is authorized to hire or purchase, and in payment therefor he shall issue to the person entitled thereto his certificate showing the amount due and the purpose for which it was given, and upon approval by the commissioners court a warrant shall issue therefor to the holder thereof on the county treasurer, to be paid by him out of the proper fund as other warrants. All such certificates shall be dated, numbered and signed by the road superintendent, and he and the sureties on his official bond shall be liable for all loss or damages caused by the wrongful issue of any such certificate or any extravagance in the amount thereof.

Sec. 14. The commissioners court of any such county may, when deemed best, construct, grade, gravel or otherwise improve any road or bridge by contract. In such case said court or the county Judge may advertise, in such manner as said court may determine, for bids to do such work and the contract shall be awarded to the lowest responsible bidder, who shall enter into bond with good and sufficient sureties for the faithful compliance with such contract, but said court shall have the right to reject any and all bids. At the time of making any such contract the said court shall direct the county treasurer to pass the amount of money stipulated in such contract to a particular fund for that purpose, and the treasurer shall keep a separate account of such fund and the same shall not be used for any other purpose and can only be paid out on the order of said court.

Sec. 15. The commissioners court may require all county convicts not otherwise employed to labor upon the public roads under such regulations as may be most expedient. Each county convict worked on the roads in satisfaction of any fine and costs shall receive a credit thereon of fifty cents for each day he may labor. And the commissioners court may order that the county pay to the officers of court as much as one-half of the costs due them and adjudged against such convict, and upon such order such payment shall be made. But no such costs or any part thereof shall ever be paid until such convict has worked out the entire amount of such fine and costs as provided by law, and then only upon a certificate from such county or precinct superintendent to the effect that such costs have been so worked out. The commissioners court may grant a reasonable commutation of time for which a convict would be compelled to work to pay his fine and costs, or for which he is committed, as a reward for faithful services and good behavior, and such court shall make proper rules and regulations under which such commutations may be granted.

Sec. 16. The commissioners court may accept donations of money, lands, teams, tools, or labor, or any other kind of property or material to aid in building or keeping up roads in the county, and said court or any road superintendent, by and with the concurrence of the commissioners, may authorize any person to make a drain along any public road, the same to be done under the direction of the road superintendent, or such other person as such court may direct.

Sec. 17. The commissioners court of any county may retain the system of working hands under road overseers as provided by general laws, and place such overseers under the control of a county or precinct superintendent under such lawful regulations as said court may prescribe or may work with overseers without any superintendent, as may be deemed best.

Sec. 18. The commissioners court of any county in any county in

which a special tax for the maintenance of the public roads is levied and collected, as provided for in section 9, article 8, of the constitution, shall not be compelled to require persons subject to road duty to work on the roads, as prescribed in existing general laws, but in such counties the roads shall be worked wholly by taxation, or by taxation in connection with road service as such court may deem best. In any such county such court may reduce the number of days that persons liable to road duty may be required to work on the roads, but can never increase the same above five days in any year.

Sec. 19. Each road superintendent shall keep an accurate account of all moneys received by him on account of the road or bridge fund, and pay the same over to the county treasurer within ten days after its collection, taking his receipt for the same.

Sec. 20. If any person liable under this act to work upon the public roads after being legally summoned, shall willfully fail or refuse to attend either in person or by able and competent substitute at the time and place designated by the person summoning him, or pay to the superintendent or other person authorized by the commissioners court to receive the same, the sum of one dollar per day for each day he may have been notified to work on the road, or having attended, shall fail to perform good service or any other duty required of him by law, or the person under whom he may work, he shall be guilty of a misdemeanor, and on conviction thereof fined in any sum of not less than five nor more than twenty five dollars.

Sec. 21. Any road superintendent who shall willfully fail or refuse to comply with any provision of this act or order of the commissioners court shall be guilty of a misdemeanor, and on conviction thereof, punished by fine of not less than twenty five nor more than two hundred dollars for each offense.

Sec. 22. Any person who shall knowingly or willfully destroy, injure or misplace any bridge, culvert, drain, sewer, ditch, signboard, mile post or tile, or anything of like character, placed upon any road for the benefit of the same, shall be guilty of a misdemeanor, and upon conviction thereof, punished by fine of not more than five hundred dollars, and shall be liable to the county and any person injured for all damages caused thereby.

Sec. 23. The county superintendent or the precinct superintendent, as the case may be, shall obtain from the tax collector of their counties as soon after the first day of January of each year as practicable, and before the first day of May thereafter, a full list of the delinquent poll tax payers of such county for the previous year, and the persons so appearing on said list and who are such delinquent poll tax payers shall be subject to road duty for the period of three days during such year, and they shall be summoned, as in other cases, to work the roads in the road district or precinct in which such person may reside, and the performance of the road service provided for in this section shall not exonerate the persons from any other road duty to which the persons performing the same may be subject, but this shall be taken as cumulative. The persons required to do road duty under the provisions of this section shall be subject to prosecution as provided in this act, or other law of this State, and subject to the same liabilities and punishments provided for in other cases for failing to appear or do good work, when summoned so to do, as provided for by this act or other law of this State, and all such laws shall apply to parties required to work under the provisions of this section. And when they are convicted for so failing to work the roads, shall satisfy the fine and costs as in other mis-

demeanor convictions. But any person summoned to work on the road under the provisions of this section may satisfy such summons and be relieved from such duty by paying to the county road or precinct superintendent, as the case may be, three dollars; one third of which sum shall go to the free school fund, and the balance to the road and bridge fund.

Sec. 24. The term "road" as used in this act includes road bed, ditches, drains, bridges, culverts, and every part of such road, and the terms "work" and "working" includes the opening and laying out of new roads, widening, constructing, draining, repairing, and everything else that may be done in and about any road.

Sec. 25. This act shall be cumulative of all other general laws on the subject of roads and bridges not in conflict herewith and where not otherwise provided herein such general laws shall apply; but in case of conflict with other general laws the provisions of this act shall govern.

Sec. 26. The counties of Grayson, Travis, Houston, Dallas, Limestone, Fayette, Galveston, Cherokee, Gonzales, Wood, Raines, Harrison, Shelby, San Augustine, Sabine, Newton, Jasper, Tyler, Morris, Marion, Victoria, Goliad, Refugio, Aransas, Calhoun, Jackson, DeWitt, Hopkins, Comal, Upshur, Blanco, Camp, Gillespie, Lavaca, Parker, Panola, Milam, Lamar, Hill, Smith, Gregg, McLennan, Harris, Washington, Titus, Cass, Franklin, Delta, Angelina, Nacogdoches, Bowie, Montgomery, Walker, Trinity, Red River, Henderson, Van Zandt, Tarrant and Jack counties are exempted from the provisions of this act. Provided that the county commissioners courts of Dallas and Collin counties may accept and adopt the provisions of this act, in lieu of the special acts for Dallas, Collin, Grayson and other counties, if in their judgment its provisions are better suited to Dallas and Collin counties than the said special laws.

Sec. 27. The fact that there is now no sufficient road law in force in this State, and many parts of the State are suffering by reason thereof, creates an emergency and imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended and that this act take effect and be in force from and after its passage, and said rule is hereby suspended, and it is enacted.

[Note.—The foregoing act originated in the House, and passed the same—vote not given; and passed the Senate by a vote of 22 yeas and 3 nays.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the tenth day of April, A. D. 1891, but was not signed by him nor returned to the house in which it originated with his objections thereto; nor were any objections thereto filed by him in this office after adjournment of the Legislature within the time prescribed by the constitution. This act thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

OYSTERS AND OYSTER BEDS—PRESERVATION OF.

Sec.

1. Public and private oyster beds defined; time for taking oysters; penalty.
2. Oysters culled from public beds and not needed shall be planted; penalty.
3. Rights of riparian owners in waters not navigable.
4. Locations for oyster beds in navigable waters, how made and marked; term of location; reversion; obstruction to navigation prohibited.
5. Requisites of notice of location; notice to be recorded; evidence; when location lies in more than one county, where recorded; date of

Sec.

- location; beds mentioned in sections 3 and 4 are private.
6. Planting prohibited between first of May and September; penalty.
7. Penalty for theft of oysters.
8. Unlawful to rake, dredge, etc., with machinery, public oyster beds; penalty.
9. Injury or destruction of corners and boundaries of beds prohibited; penalty.
10. Control of more than 640 acres of water not permitted; none but domestic corporations may own or control land covered by water.
11. Repealing clause.
12. Emergency clause.

CHAP. 98.—[S. H. B. Nos. 498 and 520.] An act for the preservation of oysters and oyster beds, and for protecting the rights of persons to the same, and affixing penalties, and providing locations for planting oysters.

Section 1. Be it enacted by the Legislature of the State of Texas: That oyster beds shall be public and private; all those not designated as private, shall be public; all natural oyster beds and oyster reefs shall be deemed public. No person shall take or catch oysters from any public beds for market or sale or planting from the first day of May to the first day of September in any year. Any person offending against the provisions of this section, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined for each offense not less than \$10.00 nor more than fifty dollars.

Sec. 2. When oysters are culled or selected from public beds, those not wanted for market or sale or for family use, shall be planted while alive, by the person or persons taking them, on the beds from which they were taken, or some other bed, public or private, and any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined for each offense not less than ten dollars nor more than fifty dollars.

Sec. 3. Where any creek, bayou, lake or cove not made a navigable stream by the laws of this State or of the United States, runs through the lands of any person, such person or other lawful occupant shall have the exclusive right to use said creek, bayou, lake or cove for gathering, planting or sowing oysters within the metes and bounds of the original grant or patent of said land; but if said creek, bayou, lake or cove is not included in the survey of said lands, then the exclusive rights of the riparian owner shall extend to the middle of said creek, bayou, lake or cove.

Sec. 4. Any person, who is an actual bona fide citizen of the State of Texas, shall have the right of obtaining a location for planting oysters and making private oyster beds within any public navigable waters of this State, other than those mentioned in section 3 of this act, by designating a square space not exceeding five hundred and thirty-eight yards square intended by him for such purpose, by not less than four buoys anchored, or four stakes firmly and permanently planted, one at each corner of such location and by establishing posted notices of the same on one or more of said corner stakes or buoys, said stakes shall project at least four feet above ordinary tides and shall be not less than six inches in diameter if of wood or three inches in diameter if of iron, and any person so locating as aforesaid shall be protected in his possession thereof against trespass thereon, in like manner as freeholders are protected in their rights for a term of fifteen years after filing with the county clerk his notice of location; provided that no person shall have the right to

locate any of the public oyster beds or oyster reefs within the public navigable waters of this State under this act or under any pre-existing law. All oyster locations made under this act shall expire at the end of fifteen years from the date of filing the notice of location with the county clerk, and said location shall then revert to the State, as if the same had never been located; and provided further that no person shall locate any private oyster bed in the public navigable waters of this State within one hundred yards of low water mark of any shore without the consent of the riparian owner, said owner only having that right, nor shall any one be permitted in any wise to interfere with navigation by enclosure of said oyster beds.

Sec. 5. At any time not exceeding sixty days after placing in position any one or more of said corner posts or buoys upon one of which shall be placed the notice hereinbefore required, the locator shall file with the county clerk of the county in which his location lies, a notice of his location. The same shall be a notice to whom it concerns that the locator has on a certain date, naming it, located a private oyster bed on a certain space, describing it by such description as will suffice to locate it on the ground or water, and that he has placed posts or buoys as required by law. If such notice be filed before the four corners are designated by posts or buoys, the notice shall so state and be followed in sixty days by a supplementary notice after the four corners are all designated by posts or buoys. Notices of location shall in all cases state that the location described does not conflict with any other private bed, and that it is not on any public bed or oyster reef. The notices filed with the clerk as aforesaid shall further state that the locator is a bona fide citizen of the State of Texas. It shall be signed and sworn to by the locator or his agent; the county clerk shall record such notices in a well bound book to be kept for that purpose, and the original with a certificate of registration returned to the locator. The county clerk shall receive for his services in recording such notices the same fee as is charged for recording deeds. The originals or certified copies from the records shall be admissible in evidence under the same rules governing the admission of deeds or certified copies thereof. When the location lies in more than one county the notices shall be filed in all counties in which the location is situated or otherwise the location will be effective only as to those portions lying in the county or counties in which the notice or notices are filed. Upon complying with the provisions of this act, the right of the locator shall date from the placing of the first post or buoy. All oyster beds planted, created or established in accordance with sections three and four of this act shall be private oyster beds, and the owners of the same shall be entitled to all the privileges and protection of this act, after having caused his claim to be duly posted and recorded in the county clerk's office as herein provided.

Sec. 6. That it shall not be lawful for any person to plant or purchase oysters for planting, bedding or depositing or for marketing or for any other purpose whatever, from the first day of May to the first day of September in any year, and if any person shall violate the provisions of this section, or either of them, he shall be deemed guilty of a misdemeanor, and on conviction he shall be fined for each offense not less than ten nor more than one hundred dollars.

Sec. 7. If any person shall willfully take oysters from a private bed or shall take oysters deposited by one making up a cargo for market or for family use without the consent or permission of the owner thereof,

he shall be deemed guilty of theft, and upon conviction, shall be fined in any sum not less than fifty nor more than two hundred dollars, and by confinement in the county jail for a term of not less than twenty days nor more than twelve months.

Sec. 8. It shall be unlawful for any person or persons to rake, dredge or excavate with machinery any public oyster bed or oyster reefs in the waters of this State. Any person or persons who shall violate the provisions of this section shall on conviction be fined in any sum not less than five hundred nor more than one thousand dollars. Each days violation of any of the provisions of this section will constitute a separate offense.

Sec. 9. Any person who shall willfully deface, injure or destroy or remove any post or buoy, or any part thereof used to designate the corners or boundaries of any private oyster beds without the consent of the owner of said private oyster bed, shall be deemed guilty of malicious mischief and punished accordingly.

Sec. 10. No person, firm or corporation shall ever own, lease or otherwise control more than six hundred and forty acres of land covered with water, the same being oyster locations in this State, and any corporation that now holds six hundred and forty acres or more of such oyster locations shall not be permitted hereafter to acquire, own, lease or otherwise control more. Provided that no corporation shall own, or lease, or otherwise control any such land covered by water unless such corporation shall be duly incorporated under the laws of this State.

Sec. 11. All laws and parts of laws in conflict with the provisions of this act are hereby repealed.

Sec. 12. The fact that there is no adequate and sufficient law for the protection and preservation of public oyster beds and public oyster reefs, and the near approach of the close of the present session, creates an imperative public necessity and an emergency necessitating the suspension of the constitutional rule requiring all bills to be read on three several days, and it is so suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act originated in the House, and passed the same by a vote of 72 yeas and 9 nays; and passed the Senate by a vote of 21 yeas and 7 nays.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the eleventh day of April, A. D. 1891, but was not signed by him nor returned to the House in which it originated with his objections thereto; nor were any objections thereto filed by him in this office after adjournment of the Legislature, within the time prescribed by the constitution. This act thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

CITIES AND TOWNS—COMPROMISE OF INDEBTEDNESS.

Sec. 1. Amends section 9, act of March 26, 1887.

(9.) Board of liquidation, how appointed; term of office; no compensation; collection and deposit of moneys; penalty for failure; application of funds; reports of board.

2. Emergency clause.

CHAP. 99.—[S. B. No. 323.] An Act to be entitled an act to amend section 9, of an act to authorize any city or town in this State to compromise existing indebtedness and to issue new bonds to be sold or exchanged for this purpose, and to provide for the efficient collection of taxes to pay the principal and interest of such new bonds, and to provide for the appointment of receivers for said municipal corporations during the pendency of negotiations for such compromise, approved March 26, 1887.

Section 1. Be it enacted by the Legislature of the State of Texas: That section 9 of an act entitled "an act to authorize any city or town in this State to compromise existing indebtedness, and to issue new bonds to be sold or exchanged for this purpose, and to provide for the efficient collection of taxes to pay the principal and interest of such new bonds, and to provide for the appointment of receivers for said municipal corporations during the pendency of negotiations for such compromise" be and the same is hereby amended so as to read hereafter as follows:

Section 9. That whenever a compromise of the debt of any city or town shall be effected, as hereinbefore provided, and the bonds are delivered to the creditors, a board of liquidation, consisting of five reputable citizens of such city or town, shall be appointed forthwith in the manner following: The mayor of the city or town shall appoint one, the Governor of the State shall appoint one, and the district judge of the district in which such city or town shall be situated shall appoint one, the city council of the city or town shall appoint one, and the holders of said indebtedness, or a majority of them, shall appoint one; and each shall fill vacancies in the office of their respective appointees in said board; and in case of failure, neglect or refusal of any one or all of said officers to appoint a member of said board, or to fill vacancies therein then the holders of said bonds, or any one or more of them shall have the right to apply to the district court of the district in which such city or town shall be situated, or to the Judge thereof in vacation, for the appointment of a member or members of said board necessary to complete the same, and it shall be the duty of said court or judge to make said appointment. The members of said board shall serve without compensation and shall hold their offices for the term of four years and until their successors are appointed and qualified. Each member of said board shall take an oath to faithfully perform the duties of his office. A majority of said board shall constitute a quorum for the transaction of business. Said board, or a majority thereof, shall select some solvent depository for all moneys coming under their control, as hereinafter provided, and for whose acts they shall be responsible, and shall, in writing signed by them, notify the Collector of taxes of said city or town of said selection. It shall thereupon become the duty of such Collector to deposit at the close of business each day one half of all moneys collected by him for the twenty-four hours next preceding, on account of all the taxes of whatever nature levied by said city or town, with the said depository, whose receipt therefor shall be an acquittance to said collector; and said collectors shall be liable on their official bonds for any failure to promptly make such deposits and for ten per cent per month of such amounts, and in addition thereto as penalty; which sums may be recovered by said board of liquidation in a suit therefor; and it shall be

their duty to promptly institute such suits. But whenever the total of said deposits shall equal the annual interest on said bonds it shall be lawful for such collector to discontinue said deposits until he shall be notified in writing by said board that said deposits are reduced below that sum. Said funds of cities or towns shall be subject to the order of said boards of liquidation, and shall be applied by them to the payment, first, of the interest on said bonds as the same matures; and, secondly, to the payment of the principal thereof; and thirdly, to the payment of interest on any valid bonds issued by such city and not embraced in any issue of bonds issued under the provisions of this act, and fourthly, to the payment of the principal of bonds of the character last referred to on the maturity of same. The members of said board shall be liable for the prompt payment of said interest out of said funds, and in case of failure or refusal they shall, in addition, be liable to ten per cent of the amount of such interest as damages to be recovered by any person aggrieved thereby, in any court of competent jurisdiction. Whenever there shall be in the hands of such depositories a sufficient sum to pay two per cent of the principal of said bonds in addition to one year's interest it shall be the duty of said board of liquidation to use the same in the purchase of outstanding bonds, provided in section 6 of this act, which bonds when so purchased shall be canceled and shall together with all coupons which have been paid be returned to the council of the city or town. Expenses incurred by said board in advertising for purchase of bonds shall be paid out of said funds. Said boards shall make semi-annual reports to the said councils of their acts and of all receipts and disbursements of moneys coming under their control.

Sec. 2. That in order to save much unnecessary expense and inconvenience of cities and towns which have compromised their debt under the provisions of this act, an imperative public necessity exists that the constitutional rule requiring bills to be read on three several days to be suspended, and this act shall take effect from and after its passage.

[Note.—The foregoing act originated in the Senate, and passed the same by a vote of 24 yeas and 3 nays; and passed the House by a vote of 73 yeas and no nays.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the eleventh day of April, A. D. 1891, but was not signed by him nor returned to the house in which it originated with his objections thereto; nor were any objections thereto filed by him in this office after adjournment of the Legislature within the time prescribed by the constitution. This act thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

PROTECTION OF STOCKRAISERS, FARMERS, ETC.—BOUNTY FOR DESTRUCTION OF WOLVES, ETC.

Sec.

1. Prescribes amounts to be paid for the killing of certain wild animals.
2. Payment of claims; how made; proof.
3. Commissioners court may reject claims on insufficient proof; destruction of scalps.
4. Commissioners court to make item-

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- ized statement; certified copy to be furnished the comptroller; payments to the county treasurer.
5. Appropriation to carry out this act.
6. Repeals chapter 119, act approved April 2, 1887.
7. Emergency clause.

CHAP. 100.—[H. B. No. 129.] An act to protect stockraisers, farmers, and Horticulturists, providing for the destruction of wolves and other wild animals; to make an appropriation therefor. and to repeal chapter 119 relating to same subject, approved April 2, 1887.

Section 1. Be it enacted by the Legislature of the State of Texas: That hereafter when any person shall kill any wolf, either Cayote, or Lobo, Panther, Mexican Lion, Tiger, Leopard, Wild Cat, Catamount or Jack Rabbit, he shall be paid in the county in which he kills such animal or animals the sum of two dollars for each cayote, and the sum of one dollar for each wild cat or catamount, and the sum of five dollars for each panther, lobo, mexican lion, tiger or leopard, and the sum of one dollar per dozen for jack rabbits and fifty cents per dozen for prairie dogs so killed.

Sec. 2. The commissioners court of each county in this State shall order to be paid to the person or persons having killed any of said animals in their respective counties as fixed in section one of this act, upon their exhibiting the scalp or scalps of the animal or animals so killed by him or them, to the commissioners court of said county, accompanied by the written affidavit of such person or persons, stating when and where such animal or animals were killed, the kind of each, and that affiant or affiants, and no other, killed said animal or animals; provided, that no money shall be paid for any scalp which was taken from an animal that was killed prior to the taking effect of this act.

Sec. 3. The scalps named in section 2, of this act shall consist of a sufficient portion of the hide of the animal killed, including the ears thereof, to enable the court to determine the kind of animal killed, and said court shall in all cases, where it is not satisfied of the truth of the matters set forth in said affidavit, reject any and all claims: The said court shall slit each ear of the scalps as received and destroy the same as soon as warrant shall have issued for the payment of said scalps, but shall cause the affidavit mentioned herein to be filed by the clerk of said county for inspection of the public for two years from date of filing.

Sec. 4. It shall be the duty of the commissioners court of the several counties of this State, at each regular session of each year, to make an itemized statement showing the several amounts paid, to whom and when paid, by order of said court under this provision of this act: said statement shall be entered upon the minutes of said court, and a certified copy of such statement shall be transmitted by the clerk of said court to the Comptroller of the State. Upon receipt of said certified copy by the Comptroller, it shall be his duty to draw his warrant upon the State Treasurer for one half ($\frac{1}{2}$) of the aggregate amount paid out by such county, under the provisions of this act, as shown by said certified copy of statement, payable to the Treasurer of said county, which said amount, when received by the County Treasurer, shall be by him credited one-half to the fund of the first class, and one-half of the fund of the third class of said county.

Sec. 5. The sum of fifty thousand dollars, or so much thereof as may be necessary, be and the same is hereby appropriated out of any money in the treasury not otherwise appropriated, upon which the Comptroller shall draw his warrant as required in section four of this act; provided that the exhaustion of the appropriation herein made shall terminate the liability of the State, and absolve it from any future claims of any and all persons who may have claims, real or pretended, under the provisions of this act.

Sec. 6. Chapter 119, entitled, "an act to protect stock raisers, providing for the destruction of wolves and other wild animals, approved April 2, 1887," be and the same is hereby repealed.

Sec. 7. Whereas, there is now no adequate law for the protection of stock-raisers, farmers and horticulturists against the destruction of wild animals; and whereas, a great number of cattle, sheep, swine, colts and other stock, as well as poultry are being daily destroyed and other damages incurred throughout the stock raising and agricultural portions of the State, and the public good requires immediate relief therefore, an emergency and public necessity exists that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act originated in the House and passed the same—vote not given; and passed the Senate—vote not given.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the eleventh day of April, A. D. 1891, but was not signed by him nor returned to the House in which it originated with his objections thereto; nor were any objections thereto filed by him in this office after adjournment of the Legislature, within the time prescribed by the Constitution. This act thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

PRIVATE CORPORATIONS.

- Sec. 1. Amends article 566, chapter 2, title 20, R. S., as amended by act of April 30, 1888.—Purposes for which private corporations may be formed.
2. Emergency clause.

CHAP. 101.—[S. S. B. No. 100.] An act to amend an act entitled "an act to amend article 566, chapter 2, title 20, of the Revised Civil Statutes of the State of Texas, as amended by the twentieth Legislature, approved March 23, 1887, and as amended at the special session of the twentieth Legislature, approved April 30, 1888.

Section 1. Be it enacted by the Legislature of the State of Texas: That article 566 of chapter 2, title 20, of the Revised Civil Statutes of the State of Texas, as amended by the twentieth Legislature, approved March 23rd, 1887, and as amended at the special session of the twentieth Legislature, approved April 30, 1888, be so amended to hereafter read as follows:

Article 566. The purposes for which private corporations may be formed are:

1. The support of public worship.
2. The support of any benevolent, charitable, educational or missionary undertaking.
3. The support of any literary undertaking, the maintenance of a library or the promotion of painting, music and other fine arts.
4. The encouragement of agriculture and horticulture by associations

for the maintenance of public fairs and exhibitions of stock and farm products.

5. The maintenance of a public or private cemetery.
6. The construction and maintenance of any species of road and bridges in connection therewith.
7. The construction and maintenance of a bridge which may be used for any or all modes of travel and transportation.
8. The construction and maintenance of a telegraph and telephone line.
9. The establishment and maintenance of a ferry.
10. The establishment and maintenance of a line of stages.
11. The building and navigation of steamboats and vessels, and the carriage of persons and property thereon.
12. The supply of water to the public.
13. The manufacture and supply of gas, and the supply of light, heat and electric motor power or either of them, to the public by any means.
14. The transaction of any manufacturing or mining business.
15. The transaction of a printing or publishing business and in connection therewith, the sale of goods, wares and merchandise of a stationery and blank book manufacturing business.
16. The establishment and maintenance of a hotel.
17. The erection of buildings and accumulation and loan of funds for the purchase and sale of real property in cities, towns and villages and their suburbs.
18. The transportation of goods, wares and merchandise or of any valuable thing.
19. The promotion of immigration.
20. The construction and maintenance of sewers.
21. For the constructing, acquiring, maintaining and operating street railways and suburban or belt lines of railway within and near cities and towns, which may also construct, own and operate union depots. But no street railway company shall ever be exempt from the payment of assessments that may be legally levied or charged against it for street improvements.
22. The erection and maintenance of market houses and market places.
23. The construction and maintenance of canals for the purpose of irrigation, navigation and manufacturing.
24. The purchase and sale of goods, wares and merchandise, and agricultural and farm products. The number of persons incorporating for such purposes shall in no instance be less than ten, nor shall any person hold or own more than \$500 of such stock; and any person holding or owning more than \$500 of such stock shall be liable for all the debts of such corporation.
25. For the purpose of buying and selling goods, wares and merchandise of any description by wholesale; but the limitations upon stock and stockholders in corporations created under subdivision 24 of this article shall not apply to corporations created under this subdivision.
26. The construction of harbors and canals on the coast of the Gulf of Mexico.
27. The growing, selling and purchasing of seeds, plants, trees, etc., for agricultural, horticultural and ornamental purposes.
28. The construction and maintenance of mills, gins, cotton compresses, grain elevators and wharfs.

29. The accumulation and loan of money; but this subdivision shall not permit incorporations with banking or discounting privileges.

30. The construction and maintenance of stockyards and pens.

31. The construction and maintenance of establishments for slaughtering, refrigerating, canning, curing and packing meat.

32. The construction and maintenance of establishments for the preserving and canning of fruits, vegetables and fish.

33. The establishment and maintenance of clearing houses.

34. To construct and maintain water power.

35. For the purpose of constructing railroads and bridges for railroad companies.

36. To support and maintain bicycle clubs and other innocent sports.

37. To act as trustee or assignee or receiver, when designated by any person, corporation or court so to do, and to do a general fiduciary and depository business. To act as surety and guarantor of the fidelity of employees. To act as executor and testamentary guardian when designated as such by a decedent. Provided, that each corporation organized under this section shall publish in some newspaper of general circulation in the county where such company is organized, on the first day of February of each year, a statement of its condition on the previous thirty first day of December, showing under oath its assets and liabilities, and that a copy of this statement be filed with the Commissioner of insurance, statistics and history, and a fee of \$25 is paid to that officer for filing the same, and that an examination of its affairs be made at any time by the Commissioner of insurance, statistics and history; such examination to be at the expense of the company.

38. For establishing transportation companies with power to buy, construct, lease, own, operate, maintain and convey all kinds of steamships, vessels and other water crafts, and may navigate the same between all ports of the globe and upon rivers; and construct, buy, lease, own, maintain, operate and convey warehouses, docks and wharves, and to buy, lease, receive, own, hold and enjoy real and personal property necessary in the transaction of its business; to receive, purchase, hold, use and convey such rights, privileges, franchises and property, and to exercise, beyond the jurisdiction of this State, such powers as may be granted to or conferred upon it by any foreign government, state or municipality; to have officers and agents and to maintain offices at all points at which the company may do business; to act as principal or agent in buying and selling merchandise in all foreign countries; to carry passengers, freight, express and mail.

39. The establishment of land companies to buy, own, sell and convey real estate in any state or foreign country; but such company shall only own such real estate in this State as may be necessary for its office.

Sec. 2. The large number of bills now pending before the Legislature, and the advanced state of the session, and the large number of enterprises in Texas now doing business in Texas, but desiring to incorporate under the laws of Texas, create an emergency and imperative public necessity that the constitutional rule requiring all bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act originated in the Senate and passed the same March 5, 1891—vote not given: and passed the House April 3, 1891—vote not given.]

[Note.—The foregoing act was presented to the Governor of Texas

for his approval on the eleventh day of April, A. D. 1891, but was not signed by him nor returned to the house in which it originated with his objections thereto; nor were any objections thereto filed by him in this office after adjournment of the Legislature, within the time prescribed by the constitution. This act thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

RAILROADS—RELIEF OF.

Sec.

1. Certain railroads relieved from operation of articles 605 and 4278, R. S.; confirmation of incorporation, etc.; does not revive claim on subscriptions.
2. Time for construction extended; cor-

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- porate existence, rights, etc., restored; applies only where fifty miles have been constructed; does not revive any claim against the State for land or other privileges.
3. Emergency clause.

CHAP. 102.—[S. S. B.'s. for H. B.'s. Nos. 16 and 109.] An act to relieve railroad companies chartered under the Revised Statutes of Texas, which have in good faith constructed any part of their roads prior to the first day of January, 1889, from the operation of articles 605 and 4278 of the Revised Statutes as to the roads so constructed, and to relieve railway companies which have constructed fifty miles or more of railroad from the operation of said articles and of article 4114 of the Revised Statutes for two years.

Section 1. Be it enacted by the Legislature of the State of Texas: That any railroad company incorporated under title 84 of the Revised Statutes of the State of Texas since the first day of January, 1881, which may have constructed at any [time] before January first, 1889, any part of the railroad which it was incorporated to construct, as to such railroad so constructed it is hereby relieved from the operation of article 605 and 4278 of the Revised Statutes, and the subsequent amendments thereof, and as to such road is hereby constituted a corporation from the date of its articles of incorporation, with all the rights, powers, duties and liabilities prescribed by said title and other laws of the State, to the same extent as though said articles 605 and 4278 had never been contained therein, and all of the acts done, rights acquired and liabilities incurred, which but for said articles would have been valid, are hereby re-organized, ratified and confirmed. Provided, that this act shall not be so construed as to revive any claim of such company on subscriptions to its stock which may have been lost by failure to comply with the provisions of said articles.

Sec. 2. That the time in which any railroad or branch railroad is required to be constructed by article 4278 and the subsequent amendments thereof, or by 4114 of the Revised Statutes of Texas, is hereby extended for a period of two years from the time this act shall take effect and the corporate existence and powers or any part thereof of any railway company which may have been lost by failure to comply with said articles or either of them or the amendments thereto is hereby revived, restored and re-established, but after the expiration of said period and not before shall be subject to the operation and effect of said articles. Provided, this section shall only apply to railway companies which have constructed and operated fifty miles or more of railroad. Provided, nothing herein shall revive any claim against the State for land or revive any claim for any other privilege than that of constructing and operating its road.

Sec. 3. The fact that there are existing railway corporations which

have lost the right of extending their railroad or branches, and that it is to the interest of the State that they should have the right to extend, and the near approach of the end of the session creates an imperative public emergency that the constitutional rule requiring bills to be read on three several days be suspended, and it is so suspended.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the eleventh day of April, A. D. 1891, but was not signed by him nor returned to the house in which it originated with his objections thereto; nor were any objections thereto filed by him in this office after adjournment of the Legislature, within the time prescribed by the constitution. This act thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

RAILROADS—SEPARATE COACHES REQUIRED.

Sec. 1. Amends section 6, act of March, 1891.

(6.) Instances wherein this act does not apply.

CHAP. 103.—[S. B. No. 365.] An Act to amend section 6 of an act entitled "An act to require railroad companies in this State to provide separate coaches for white and negro passengers, and to prohibit passengers from riding in coaches other than those set apart for their race, and to confer certain powers upon conductors, and to provide penalties for the violation of this act, passed by the Twenty-second Legislature, and approved March, 1891.

Section 1. Be it enacted by the Legislature of the State of Texas: That section 6 of the above entitled act be so amended as to hereafter read as follows:

Section 6. The provisions of this act shall not be so construed as to prohibit nurses from traveling in the same coach with their employers, or employees upon the train in the discharge of their duties, nor shall it be construed to apply to such freight trains as carry passengers in cabooses, neither shall it apply to street and suburban railway cars; provided, that nothing herein contained shall be construed to prevent railroad companies in this State from hauling sleeping cars or chair cars attached to their trains to be used exclusively by either white or negro passengers, separately but not jointly.

Sec. 2. The near approach of the close of the present session of the Legislature creates an emergency and an imperative public necessity exists requiring the suspension of the constitutional rule requiring bills to be read on three several days, and said rule is so suspended and this act shall take effect and be in force from and after its passage and it is so enacted.

[Note.—The foregoing act originated in the Senate and passed the same by a vote of 21 yeas and 5 nays; and passed the house—vote not given.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the eleventh day of April, A. D. 1891, but was not signed by him nor returned to the house in which it originated, with his objections thereto; nor were any objections thereto filed by him in this office after adjournment of the Legislature within the time prescribed by the constitution. This act thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

HARBORS, CHANNELS, ETC.—CONSTRUCTION AND MAINTENANCE OF.

Preamble.

Sec.

1. Corporations organized under laws of Texas for construction of deep water harbors, etc., may purchase lands, islands, etc., at \$2.00 per acre.
2. Price of lands, shores, etc., where company owns frontage on shallow bays, etc.; three miles of water front allowed; Tolly and Lydia Ann islands not subject to purchase; proceeds of sale.
3. Applications for purchase, how made.
4. Authority for survey; payment of purchase money; penalty for fail-

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- ure to secure twenty feet of water; forfeiture.
5. Right to construct docks, wharves, etc.; tolls, control subject to railroad commission; railroad between mainland and deep water harbor, rights and control of; exercise of rights under this act deemed contract with State; forfeiture.
6. Exercise of rights herein granted shall not hinder completion of railroad on Harbor Island.
7. Release required to be filed by the corporation.
8. Emergency clause.

CHAP. 104.—[S. B. No. 346.] An Act to encourage the construction and maintenance of deep water harbors, navigable channels, docks and wharves on the gulf coast within the State of Texas, and to define the rights and duties, and fix the liabilities of the corporations that may acquire land or privileges under this act.

Whereas, Deep water harbors, navigable channels, docks and wharves on the gulf coast of Texas are of great importance to the development and prosperity to the State of Texas and the entire northwest; now, therefore,

Section 1. Be it enacted by the Legislature of the State of Texas: That any corporation organized under the laws of Texas, which is now authorized or which may hereafter be authorized by an act of Congress of the United States to construct, own, operate or maintain with private capital, a deep water harbor, navigable channel, docks or wharves on the gulf coast of Texas, shall be permitted to purchase from the State of Texas at two dollars per acre so much of any public lands, islands, shores or shallow bays belonging to the State of Texas that may be situated within one-half mile from any point or points on the construction works of any jetties or any such deep water channel leading into the main harbor from the open sea; provided, that in no case shall such strip or body of land be more than one-half mile in width, and such person, company or corporation may also purchase from the State at the same price per acre any lands, shores, islands or shallow bays within one-fourth mile of each side of every navigable channel, that such company or corporation may construct through or across such shallow bays in the prosecution of such work.

Sec. 2. Any such company or corporation owning in whole or in part any lands fronting or abutting upon any shallow bays in which any such work is being constructed, may purchase at the same price per acre any lands, shores or shallow bays adjoining and lying in front of such lands; provided, that such purchase shall not extend into such bay so as to include land covered with water having an average depth of more than three and one-half feet at mean low tide. That the purchasers under the provisions of this section shall not extend a greater distance along the front of the survey on the shore than three miles nor a greater distance into the bay than one-half mile; provided, that the islands known as Tolly island and Lydia Ann islands, situated in Aransas Bay, shall not be subject to purchase under the provisions of this act; provided, that one-half of the proceeds of the sale of the lands as provided for in this act shall belong to the permanent free school fund of this State.

Sec. 3. All applications of a purchaser to buy under the provisions of this act shall be made in writing to the Commissioner of the General Land Office, accompanied by one-fifth of the purchase money, and also by a copy of the act of Congress authorizing the construction of such deep

water harbor, navigable channel, docks or wharves, and a complete plat or map showing the location and design of such improvements, and said plat or map shall also show the public lands, shores, islands and shallow bays applied for, and the depths of such shallow bays in feet, determined by actual survey or as shown by the United States coast survey map.

Sec. 4. Upon the payment of one-fifth of the purchase money as hereinbefore provided, the Commissioner of the General Land Office shall issue a receipt therefor, and attach thereto a copy of the application and plat filed by said purchaser, which said receipt shall be sufficient authority to the proper county surveyor to survey the lands, shores, islands or shallow bays sold; provided, that the remainder of the purchase money may be paid at any time within five years after date of first payment, and deferred payments shall bear interest at the rate of five per cent per annum payable annually. If any individual, association of individuals, company or corporation purchasing any land, island or shallow water bays, under this act shall fail to secure twenty feet of water over the bar between the Gulf of Mexico and the main harbor within five years from the date of such purchase and maintain said twenty feet of water continuously for two years, then all such rights shall revert to the State. If the purchaser of any island, shallow water bay, land or either under this act, shall fail to pay the annual interest upon any part of the purchase money when such interest shall become due, or if such purchaser shall fail to pay the principal when the same shall become due, then all rights acquired under such purchases shall be forfeited with all payments made thereon, without any judicial ascertainment of such forfeiture, and the Commissioner of the General Land Office shall indorse upon the contract of purchase, that the same is forfeited, whereby all rights so acquired shall be forfeited and revert to the State. If any such corporation shall fail to conform to the act of Congress in prosecuting such work or if such corporation shall fail to secure twenty feet of water at low tide upon the bars and other obstructions between the main harbor and the Gulf of Mexico within five years after the date at which this act shall take effect, if such corporation now exist, or within five years of the date of the filing of the charter of any such company hereafter to be formed, then all islands, lands, shallow bays and other rights acquired under this act shall be forfeited and shall revert to and vest in the State of Texas.

Sec. 5. Any corporation organized under the laws of this State which has such authority as mentioned in the first section of this act conferred upon it by act of the Congress of the United States, may construct, own and maintain, upon the gulf coast of Texas, in connection with its deep water harbor and navigable channels, docks and wharves and navigable channels for the accommodation of commerce, and such corporation may charge, demand and receive reasonable and just tolls, and charge for the use of such docks and wharves; but all navigable channels so constructed shall forever remain open and free to all vessels without fee or charge; the tolls and charges for the use of said docks and wharves shall be equal, just and uniform to all vessels, persons and corporations without discrimination as to amount charged or delay in handling the same, and all such tolls and charges shall be under the control of the Legislature of the State of Texas; and until otherwise directed by the Legislature shall be subject to control and regulation by the Railroad Commission under the rules prescribed for the regulation of railroads so far as applicable. Any railroad or other means of transportation which may be constructed between the mainland and any deep water harbor or channel

shall be a public highway, and all rates and charges for the transportation of freights and passengers thereon shall be subject to the control and regulation of the Railroad Commission as a railroad: such railroad or other means of transportation shall receive from each and every ship, boat and vessel or from the wharf on which the same is discharged, all freights and passengers and transport and deliver them to the consignee or any connecting line of railroad without discrimination as to charges or delay in transportation and delivery, and shall in like manner receive from every person and from every connecting line of railroad all freight and passengers and transport and deliver the same to each and every ship, boat, vessel, person or corporation for delivery to such ship, boat or vessel on like equal and just terms without discrimination as to charges and delay in transportation or delivery thereof. Nothing herein shall be construed to affect any rights acquired before the passage of this act. The acceptance of this act or the exercise of any rights or privileges granted in this act by said corporation or any person or corporation holding under the same, shall be deemed and held to be a contract with the State; that any wilful violation of the provisions of this act, or the doing of any act herein prohibited, shall work a forfeiture of all rights acquired under this act so far as then held or claimed by the person or corporation guilty of such violation.

Sec. 6. The privileges and rights granted in this act shall never be exercised so as to in any way hinder or interfere with the completion of any railroad heretofore chartered to be built to and upon Harbor Island, in and upon the location designated in such charter; nor with any such railroads acquiring and controlling all necessary depot grounds, wharf grounds and deep water fronts that it may or could have acquired legally, had not this act been enacted.

Sec. 7. Before any rights can vest in any corporation by virtue of any purchase of public lands, islands, shores or shallow bays, the said corporation shall file with the Secretary of State a release to the State of Texas of all claim or right to have its tolls or charges imposed for any use to be made of such property or structures thereon regulated by any act of Congress now existing or hereafter to be passed.

Sec. 8. And whereas, deep water improvements are of vital importance to the country, and whereas, the present Legislature will not likely remain long in session, now, therefore, an imperative public necessity and an emergency exists requiring the suspension of the constitutional rule requiring bills to be read on three several days, and the rule is suspended, and that this act take effect from and after its passage, and it is so enacted.

[Note.—The foregoing act originated in the Senate and passed the same by a vote of 21 yeas and 4 nays; and passed the House by a vote of 61 yeas and 20 nays.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the eleventh day of April, A. D. 1891, but was not signed by him nor returned to the house in which it originated with his objections thereto; nor were any objections thereto filed by him in this office after adjournment of the Legislature within the time prescribed by the constitution. This act thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

RAILROADS—BRANCH LINES OF.

Sec. 1. Amends article 4113, R. S.

Article 4113. Company may locate, construct, etc., branch lines; certain articles of incorporation validated.

2. Emergency clause.

CHAP. 105.—[H. B. No. 482.] An Act to amend article 4113 of the Revised Statutes of the State of Texas, and to validate all charter amendments in accordance with the article as amended.

Section 1. Be it enacted by the Legislature of the State of Texas: That article 4113 of the Revised Statutes of Texas shall hereafter read as follows:

Article 4113. Any railroad company may by its original articles of incorporation or by amendment to its charter project and provide for the locating, constructing, owning and operating of branch lines from any points on its main line or from any points on its branch lines (constructed or projected) to any other points, making an angle of at least 25 degrees in the general course from the main line (if the branch commence from the same), or from the branch line, if it commence at a point on the same; provided, that the same may commence at the terminus of a branch line and continue in its general course, and may by amendment to its charter provide for the continuation in its general course of the main line; that any and all amendments of charters, acts or articles of incorporation approved by the Attorney General of the State or his lawful representative, by which any branch railroad or railroads has or have been constructed in accordance with the provisions of this article as herein provided, are authorized, validated, sanctioned and confirmed to the same extent as though this article had always read as it does as now amended.

Sec. 2. The fact that there is now no clear and adequate provision for the construction of branch lines of railroads and the near approach of the end of the session creates an emergency and an imperative public necessity requiring the suspension of the constitutional rule requiring bills to be read on three several days, and the same is hereby suspended, and this act shall take effect from and after its passage.

[Note.—The foregoing act originated in the House and passed the same by a vote of 91 yeas and no nays; and passed the Senate by a vote of 21 yeas and 6 nays.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the eleventh day of April, A. D. 1891, but was not signed by him nor returned to the house in which it originated with his objections thereto; nor were any objections thereto filed by him in this office after adjournment of the Legislature, within the time prescribed by the constitution. This act thereupon became a law without his signature.—Geo. W. Smith. Secretary of State.]

COUNTY FINANCES.

- Sec. 1. Amends section 1, chapter 79, of Twenty-first Legislature, approved April 4, 1889.
 Commissioners court authorized to compromise indebtedness created prior to January 1, 1891; may issue bonds.
2. Emergency clause.

CHAP. 106.—[S. B. No. 336.] An Act to amend section 1 of chapter 79 of an act passed at the regular session of the 21st Legislature, approved April 4, 1889, entitled an act to authorize counties to fund their indebtedness and to provide means to pay the same.

Section 1. Be it enacted by the Legislature of the State of Texas: That section 1 of chapter 79, of an act passed at the regular session of the 21st Legislature, approved April 4, 1889, entitled "an act to authorize counties to fund their indebtedness and to provide means to pay the same," be amended so as to hereafter read as follows:

That the county Commissioners court of any county in this State is hereby authorized and empowered to compromise, compound, refund, settle with and to fund any existing indebtedness lawfully made and undertaken by such county by authority of law created prior to January 1st, 1891, and for this purpose the said Commissioners courts are hereby authorized and empowered to issue bonds in denomination of not less than five hundred dollars with interest coupons payable annually, said bonds to become due and payable in twenty years from the date of their issuance; provided that said bonds may be paid off at any time after two years from the date of their issuance if the Commissioners court should so elect, and provided further that such bonds shall not be sold for less than their face or par value, said bonds to bear interest not exceeding six per cent per annum. And the said Commissioners court are further authorized and empowered to levy a tax upon all real and personal property situated in the county, not to exceed twenty-five cents on the hundred dollars on the assessed value of such property in any one year to pay the annual interest, and not less than two per cent annually of the principal of said bonds, besides the expense of assessing and collecting the same, and no bonds shall be issued under this act until a levy as herein provided shall have been made, and when such levy shall have been so made, the same shall continue in force until the whole amount of the principal and interest shall have been fully paid. Provided that nothing herein shall be construed to authorize any county to levy any tax in excess of that authorized by the constitution and laws now in force; provided further, that it shall not authorize the taking up of bonds heretofore issued and issuing new bonds in lieu thereof unless such new bonds shall bear a less rate of interest than the bonds so taken up.

Sec. 2. The near approach of the close of this session creates an emergency and an imperative public necessity exists, requiring that the constitutional rule requiring bills to be read three several days be suspended and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act originated in the Senate and passed the same by a vote of 24 yeas and no nays; and passed the House—vote not given.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the thirteenth day of April, A. D. 1891, but was not signed by him nor returned to the house in which it originated with his

objections thereto; nor were any objections thereto filed by him in this office after adjournment of the Legislature, within the time prescribed by the constitution. This act thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

TAXATION—CITIES AND TOWNS.

Sec. 1. Amends article 522, chapter 11, title 17, R. S.

Article 522. May levy annual occupation, poll and ad valorem taxes; rate of.

2. Emergency clause.

CHAP. 107.—[S. B. No. 320.] An Act to amend article 522, chapter 11, title 17, of the Revised Civil Statutes of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas: That article 522, chapter 11, title 17, of the Revised Civil Statutes of the State of Texas, shall be so amended as to hereafter read as follows:

Article 522. The board of aldermen shall have power to levy and collect an occupation tax of not more than one half the amount levied by the State; also to levy taxes on persons and property, real and personal, within the corporation, subject to taxation by the laws of the State; but the tax on persons and property shall not in any one year exceed the rate of one-fourth of one per cent on the one hundred dollars valuation.

Sec. 2. The near approach of the close of the session of the Legislature creates an imperative public necessity that the constitutional rule requiring bills to be read on three several days, be suspended, and that this act take effect from and after its passage, and it is so enacted.

[Note.—The foregoing act originated in the Senate and passed the same by a vote of 21 yeas and no nays; and passed the house—vote not given.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the thirteenth day of April, A. D. 1891, but was not signed by him nor returned to the house in which it originated with his objections thereto; nor were any objections thereto filed by him in this office after adjournment of the Legislature, within the time prescribed by the constitution. This act thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

CITIES AND TOWNS—RIGHT OF EMINENT DOMAIN.

Sec. 1. Amends section 1, act of April 8, 1889.

(1.) Proceedings to condemn private property for public use.

2. Emergency clause.

CHAP. 108.—[S. B. No. 311.] An act to amend section 1 of an act approved April 8th, 1889 to amend an act to regulate the condemnation of property in cities and towns for the purpose of opening, widening or changing public streets, avenues or alleys or or water mains or sewers, approved March 28th 1883, so as to regulate condemnation of property for erection thereon of hospitals and pest houses.

Section 1. Be it enacted by the Legislature of the State of Texas: That section 1 of the above entitled act be and the same is hereby amended so as to read as follows:

Section 1. That whenever the city council of any incorporated city or town shall deem it necessary to take any private property in order to open, change or widen any public street, avenue or alley or for the construction of water mains or supply reservoirs or stand pipes for water works or sewers or for the purpose of establishing thereon one or more hospitals or pest houses within or without the limits of such city or town, such property may be taken for such purposes by making just compensation to the owner thereof. If the amount of such compensation can not be agreed upon it shall be the duty of such city council to cause to be stated in writing the real estate or property sought to be taken, the name of the owner thereof and his residence if known, and file such statement with the County Judge of the county in which said property is situated. Any company or corporation chartered under the laws of this State for the purpose of constructing water works or furnishing water supply for any town or city shall have the same right to condemn property necessary for the construction of supply reservoirs or stand pipes for waterworks, when deemed necessary to preserve the public health that is given towns and cities under this act.

Sec. 2. The fact that there is no law regulating the condemnation of property for the purpose of erecting thereon hospitals or pest houses, and the near approach of the close of the session creates an emergency and an imperative public necessity exists for the suspension of the constitutional rule requiring all bills to be read on three several days and that this act take effect and be in force and take effect from and after its passage, and it is so enacted.

[Note.—The foregoing act originated in the Senate and passed the same by a vote of 24 yeas and no nays; and passed the House—vote not given.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the thirteenth day of April, A. D. 1891, but was not signed by him nor returned to the house in which it originated with his objections thereto; nor were any objections thereto filed by him in this office after adjournment of the Legislature, within the time prescribed by the constitution. This act thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

ARANSAS COUNTY—BOUNDARIES OF.

Preamble.

Sec.

Sec.

Defines county boundary lines.

1. Repeals act of March 17, 1887, and amends article 711, Revised Statutes.

2. Emergency clause.

CHAP. 109.—[H. B. No. 43.] An act to repeal an act entitled, "An act to amend article 711 of the Revised Civil Statutes defining the boundary of Aransas county," approved March 17, 1887, and to re-enact the former boundary of said county.

Whereas, the twentieth Legislature of this State, by an act approved March 17, 1887, so amended article 711 of the Revised Civil Statutes defining the boundary of Aransas county as to detach from San Patricio county and annex to Aransas county, more than eighty square miles of territory, without the proposition for such change having been first submitted to a vote of the people of both counties as prescribed by the constitution of this State; and.

Whereas, the detaching of said territory from the county of San Patricio, in further violation of the constitution of this State, reduces the area of said county of San Patricio far below the minimum area of seven hundred square miles; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas: That the act entitled, "an act to amend article 711 of the Revised Civil Statutes, defining the boundary of Aransas county," approved March 17, 1887, be and the same is hereby repealed, and that article 711 of the Revised Civil Statutes be so amended as to read as follows:

Beginning at the boundary of the State, on the Gulf of Mexico, opposite the center of the channel of Aransas Pass, between the islands of Saint Joseph and Mustang; thence with the line between the counties of San Patricio and Refugio to the center of Aransas river; thence down the center of said stream to Capano bay; thence with the channel of said bay parallel with the shore to the east end of the same, at the mouth of Capano creek; thence up said creek to the mouth of Alamito creek; thence in a direct line to the southeast corner of J. C. Salberg's survey on Esperitu Santo bay; thence in a direct line to Cedar Bayou; thence through said bayou to the boundary of the State on the Gulf of Mexico; thence with said boundary of the State to the place of beginning; the same as it was prior to the passage of said act of March 17, 1887.

Sec. 2. The fact that there is a conflict of jurisdiction between said counties of Aransas and San Patricio, within the territory detached from the county of San Patricio and attached to the county of Aransas by said act of March 17, 1887, and that both of said counties are now seeking to enforce the collection of taxes in said territory, creates an emergency and imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act originated in the House and passed the same by a vote of 71 ayes and 6 nays; and passed the Senate by a vote of 27 yeas and 1 nay.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the thirteenth day of April, A. D. 1891, but was not signed by him nor returned to the house in which it originated with his objections thereto; nor were any objections thereto filed by him in this office after adjournment of the Legislature, within the time prescribed by the constitution. This act thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

SUNDAY LAW.

Sec. 1. Amends article 186a, Penal Code, approved April 2, 1887; exemptions.

CHAP. 110.—[H. B. No. 214.] An Act to amend article 186a of an act to amend article 183 of the Penal Code of the State of Texas, and to amend an act entitled an act to amend article 186 of the Penal Code, approved April 10, A. D. 1883, chapter 2, title 7, and to amend said chapter and title by adding thereto article 186a, providing additional exemptions from the operation of the Sunday Law, approved April 2, 1887, so as to leave off the exemption of "barber shops."

Section 1. Be it enacted by the Legislature of the State of Texas: That article 186a of the Penal Code of Texas, approved April 2nd, 1887, be amended so as to hereafter read as follows:

Article 186a. The preceding article shall not apply to markets or dealers in provisions as to sales of provisions made by them before 9 o'clock a. m., nor to the sale of burial or shrouding material, newspapers, ice, ice cream, milk, nor to the sending of telegraph or telephone messages at any hour of the day, nor to keepers of drug stores, hotels, boarding houses, restaurants, livery stables, bath houses, or ice dealers, nor to telegraph or telephone offices.

Sec. 2. The near approach of the close of the present session of the Legislature creates an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the thirteenth day of April, A. D. 1891, but was not signed by him nor returned to the house in which it originated with his objections thereto; nor were any objections thereto filed by him in this office after adjournment of the Legislature, within the time prescribed by the constitution. This act thereupon became a law without his signature.—J. R. Curl, Chief Clerk and Acting Secretary of State.]

ROADS—LAVACA COUNTY.

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| <p>Sec.</p> <ol style="list-style-type: none"> 1. Appointment of road overseers; term of office. 2. Duty of road overseers; compensation. 3. Oath and bond of overseer. 4. Commissioners court may remove overseer and fill vacancy. 5. Overseer responsible for tools, teams, etc., received; shall deliver money and property to his successor. | <p>Sec.</p> <ol style="list-style-type: none"> 6. Convict labor; credits on fine and costs; commutation. 7. Overseer may contract for use of teams; wages allowed for teams. 8. Other duties of overseer. 9. Report of overseer. 10. Penalty for failure to comply with this act. 11. This act cumulative of general laws. 12. Emergency clause. |
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CHAP. 111.—[H. B. No. 638.] An Act to create a more efficient road system in the county of Lavaca and to provide for the appointment of road overseers therein and to define the powers and jurisdiction of the commissioners court of said county with regard thereto.

Section 1. Be it enacted by the Legislature of the State of Texas: That the commissioners court of Lavaca county may appoint a convenient number of road overseers in said county who shall hold their offices for two years and until their successors are appointed and qualified.

Sec. 2. The road overseers so appointed shall perform all of the duties required of overseers under the general laws of this State and such other duties as may be required of them by the Commissioners court of said county and shall receive such compensation as the Commissioners court may prescribe not to exceed one dollar and fifty cents per day for the time actually engaged.

Sec. 3. Each overseer shall, within twenty days after his appointment, take the oath prescribed in the constitution, and enter into bond payable to the County Judge in such sum as may be fixed by the Commissioners court, to be approved by the County Judge, conditioned that he will faithfully discharge all of the duties incumbent upon him as such road overseer and pay out and account for all the money that may come into his hands according to law and the requirements of the commissioners court, which bond shall not be void on the first recovery, but may be sued on from time to time until the full amount is exhausted.

Sec. 4. The Commissioners court may for good cause remove any overseer and in case of vacancy from any cause may fill the same by appointment.

Sec. 5. Each road overseer shall take charge of all tools, implements and teams placed under his control by the Commissioners court and execute his receipt therefor which shall be filed with the County Clerk, and he shall be responsible for all such tools, teams, implements and machinery and the proper expenditures and paying out of all money belonging to the road fund that may come into his hands, and shall be liable for the loss, injury or destruction of any such tools, teams, implements, or machinery, if the result of his negligence, or for the wrongful or improper expenditure of such money, and upon the expiration of his term of office, or in case of his resignation or removal he shall deliver all such money and property to his successor or such other person as the commissioners court may direct.

Sec. 6. The Commissioners court shall require all county convicts not otherwise employed to labor upon the public roads under such regulations as may be most expedient. Each county convict worked on the roads in satisfaction of any fine and cost, shall receive a credit thereon of fifty cents for each day he may labor, and the county shall pay to the officers one-half of any cost that may have been adjudged against such convict coming to such officers. The Commissioners court may grant a reasonable commutation of time for faithful services and good behavior.

Sec. 7. The overseers may contract with any person subject to road duty for the use of teams, and permit such person to discharge his road duty by the use of such double team; he shall never allow more than \$2.00 per day for any team, nor more than \$3.00 for any hand and double team.

Sec. 8. It shall be the duty of each road overseer to see that all of the roads and bridges in his road precinct are kept in good repair and see that every person subject to road duty in his road precinct performs the work for which he is liable under the law. He shall act as supervisor of the roads in his road precinct and perform all the duties as supervisor that now devolves upon the commissioner; and the county commissioners of said county are relieved from the performance of the duties prescribed by article 4390a, Revised Civil Statutes.

Sec. 9. Each road overseer shall make a report under oath to the Commissioners court every six months showing an itemized statement of all money belonging to the road fund he has received, from whom received, and what disposition he has made of the same, the condition of all roads and bridges in his road precinct and such other matters as the court may require information upon and shall make such other reports at such times as such court may require.

Sec. 10. Any road overseer who shall wilfully fail or refuse to comply with any provisions of this act or order of the Commissioners court or to perform any duty required of him by law shall be guilty of a misdemeanor and on conviction thereof punished by fine of not less than ten nor more than two hundred dollars.

Sec. 11. This act shall be cumulative of all general laws on the subject of roads and bridges not in conflict herewith, and where not otherwise provided herein, such general laws shall apply, but in case of conflict with general laws the provisions of this act shall govern.

Sec. 12. The fact that there is now no sufficient road law in Lavaca county and that the roads therein are in bad condition, creates an

emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and said rule is suspended, and it is so enacted.

[Note.—The foregoing act originated in the House and passed the same—vote not given; and passed the Senate—vote not given.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the thirteenth day of April, A. D. 1891, but was not signed by him, nor returned to the house in which it originated with his objections thereto; nor were any objections thereto filed by him in this office after adjournment of the Legislature, within the time prescribed by the constitution. This act thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

GUARANTY AND FIDELITY COMPANIES—REGULATION OF.

Sec.

1. Certified copy of articles of incorporation to be filed with Commissioner of Insurance, etc.
2. Copy of by-laws and names and residences of directors and statement of assets and liabilities and amount of capital stock, to be filed.
3. Capital stock required.
4. Amount of deposit of money or securities with state treasurer required; proof of value of real estate.
5. Deposit, or real estate, subject to judgments against the corporation; not permitted to withdraw deposit or sell the real estate pending suit, or while any judgment is unsatisfied.
6. Service of process, on whom made.

Sec.

7. Commissioner of Insurance, etc., shall issue certificate to corporation to transact business.
8. Who are agents under this act.
9. Penalty for acting as agent before certificate is issued to the corporation.
10. Penalty against corporation for acting without certificate of authority.
11. Statement required when corporation refuses to further guarantee fidelity of any person; penalty.
12. If corporation fails to comply with section 11, certificate to be revoked.
13. Corporations created for purposes mentioned in section 1, declared charged with a public use.
14. Emergency clause.

CHAP. 112.—[S. B. No. 276.] An Act to regulate corporations engaged in the business of guaranteeing, or acting as security for the fidelity of persons in public and private offices, employments or positions, and the agents of such corporations, and prescribing penalties for failure to comply with the provisions thereof.

Section 1. Be it enacted by the Legislature of the State of Texas: That hereafter any corporation, organized or created under the laws of this State, or of any other State or Territory, or of any municipality of such State or Territory, or of any foreign government, sovereignty or municipality, for the purpose of issuing surety, guaranty or indemnity bonds, guaranteeing the fidelity of persons in private offices, employments, or positions of trusts and contracts, or for acting as security on any such bonds, shall file with the Commissioner of insurance, statistics, history and agriculture a certified copy of its articles of incorporation and all amendments thereto.

Sec. 2. Be it further enacted that such corporation shall file with the certified copy of articles of incorporation and amendments thereto, a copy of its by laws, together with the names and places of residence of its officers and directors and a statement of its assets and liabilities, showing its net capital stock and of what it consists, certified to by the president or secretary thereof.

Sec. 3. Be it further enacted that no such corporation shall transact any business in this State unless it is possessed of at least one hundred thousand dollars actual capital stock; and if the capital stock of such corporation consists, either in whole or in part, of bonds, mortgages, secu-

rities or other property than money, the Commissioner of insurance, statistics, history and agriculture, shall require satisfactory evidence that the market value thereof is at least one hundred thousand dollars.

Sec. 4. Be it further enacted that such corporation shall, before the certificate of authority, hereafter provided for, is issued, deposit with the treasurer of his State, money or bonds or other securities, to be approved by the Commissioner of insurance, statistics, history and agriculture to the amount of twenty-five thousand dollars, or shall produce satisfactory proof that such corporation owns real estate in this State the value of which shall not be less than twenty five thousand dollars.

Sec. 5. Be it further enacted that the deposit or real estate required by the preceding section shall be held liable to pay any judgments that may be rendered against such corporation; and may be so decreed by the court rendering judgment against it. Nor shall such company be permitted to withdraw its deposit from the State treasury or to sell its real estate while any suit is pending or any judgment against it in this State remains unsatisfied.

Sec. 6. Be it further enacted, that such corporation shall file with the certified copy of its articles of incorporation a power of attorney, under its corporate seal, authorizing the Commissioner of insurance, statistics, history and agriculture, or some designated agent, to accept service of any civil process for and on behalf of such corporation, and consenting that the service of any civil process upon the Commissioner of insurance, statistics, history and agriculture, or designated agent, as the case may be, in any suit or proceeding in which the corporation is a party, shall be taken and held to be valid. Said power of attorney shall be embodied in a resolution duly adopted by such corporation, and shall be signed by the president, manager or secretary thereof officially. If any agent other than the Commissioner of insurance, statistics, history and agriculture be designated by said power of attorney, he shall be a citizen of this State, and his full name and place of residence shall be stated in the power of attorney.

Sec. 7. Be it further enacted than when any such corporation has complied with the provisions of this act, the Commissioner of insurance, statistics, history and agriculture shall issue his certificate of authority authorizing said corporation to transact business in this State.

Sec. 8. Be it further enacted, that any person who solicits business for or on behalf of such corporation or makes or transmits for any person other than himself any application for guaranty or security, or who advertises or otherwise gives notice that he will receive or transmit the same, or who shall receive or deliver a contract of guaranty or security, or who shall examine or investigate the character of any applicant for guaranty or security than himself, or who shall refer any applicant for guaranty or security to such corporation, whether any of said act shall be done at the instance and request or by the employment of such corporation, or other corporation or person, or any person who shall issue indemnifying bonds of contracts, whose solvency and compliance with his said bonds or obligations is guaranteed, directly or indirectly, by any corporation, shall be held to be the agents of the corporation so far as relates to all the liabilities and penalties prescribed by this act.

Sec. 9. Be it further enacted, that any person who shall perform any of the acts or things mentioned in the preceding section for any such corporation, without such corporation having first complied with the

provisions of this act, and having received the certificate of authority from the Commissioner of insurance, statistics, history and agriculture as provided in section 7 of this act, shall be deemed guilty of a misdemeanor and upon conviction for the first offense shall be fined in any sum not less than five hundred dollars, and not more than one thousand dollars and imprisoned in the county jail for the period of three months, and for each subsequent offense such person shall be fined in any sum not less than one thousand dollars and not more than two thousand dollars, and confined in the county jail for a period of six months.

Sec. 10. Be it further enacted, that any person, association of persons or corporation, who shall accept any corporation created for the purposes, or either of them, mentioned in section 1 of this act, without such corporation having previously complied with the provisions and requirements of this act, and having received from the Commissioner of insurance, statistics, history and agriculture, the certificate of authority provided for in section 7 of this act, shall forfeit as a penalty the sum of five hundred dollars, to be recovered by suit in the name of the State in any court of competent jurisdiction.

Sec. 11. Be it further enacted, that when any such corporation shall cancel a bond of guaranty or indemnity, or shall notify the employer of the person whose fidelity is guaranteed, that said corporation will no longer guarantee or be security for the fidelity of said person, or when said corporation has once guaranteed the fidelity of any person, or acted as security therefor, and on application refuses to do so again, it shall furnish to such person a full statement in writing of the facts on which the action of the corporation is based, and if such action be based in whole or in part on information, all such information, together with the name or names of the informants, with their place of residence, and any such corporation failing or refusing to furnish such written statement within thirty days after a request therefor, shall be liable to the person injured in the sum of five hundred dollars, in addition to all other damages caused thereby, which may be sued for and recovered in any court of competent jurisdiction.

Sec. 12. Be it further enacted, that if any such corporation shall fail or refuse to comply with the provisions of section 11 of this act, the Commissioner [of] insurance, statistics and agriculture shall revoke the certificate of authority issued to said corporation.

Sec. 13. Be it further enacted, that corporations created for the purposes mentioned in section 1 of this act are hereby declared to be charged with a public use.

Sec. 14. The near approach of the close of the present session of the Legislature and the unjust discrimination now existing against employees of railroad companies, bonded by foreign companies, engaged in business in this State, creates an imperative public necessity for the suspension of the constitutional rule requiring bills to be read on three several days, and the same is hereby suspended.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the thirteenth day of April, A. D. 1891, but was not signed by him nor returned to the house in which it originated with his objections thereto; nor were any objections thereto filed by him in this office after adjournment of the Legislature, within the time prescribed by the constitution. This act thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

JUDICIAL DISTRICTS—SEVENTEENTH AND FORTY-EIGHTH.

Sec.

1. Amends sections 1 and 2, act of February 6, 1891.

(1.) Boundaries of seventeenth district; terms of court.

Sec.

(2.) Boundaries of forty-eighth district; terms of court.

3. [2] Emergency clause.

CHAP. 113.—[S. B. No. 390.] An act to amend sections 1 and 2 of an act entitled an act to amend section 1 of an act entitled "an act to amend an act to amend an act entitled "an act to redistrict the State into judicial districts and fix the times for holding court therein, and to provide for the election of judges and district attorneys in said districts at the next general election, to be held on the first Tuesday after the first Monday in November 1884;" approved April 9, 1883; approved March 24, 1885; to create the forty third judicial district of the State of Texas, fix the time for holding court therein and to provide for the appointment of a district judge for said district, approved March 30, 1887; to create the forty eighth judicial district of the State of Texas, fix the times for holding court therein, and to fix the times for holding court in the seventeenth judicial district of the State of Texas, and to provide for the appointment of a district judge of the said forty eighth judicial district approved February 6, 1891.

Section 1. Be it enacted by the Legislature of the State of Texas: That section 1 and 2 of the above recited act, approved Feby. 6, 1891, be so amended as hereafter to read as follows:

Section 1. All that part of Tarrant county lying south and west of the following line, viz: Beginning at the center of Trinity river, at the point where said river leaves Tarrant county on its east boundary and enters Dallas county on its west boundary; thence in a westerly direction with the middle line of said river to the point where said river is crossed by the eastern boundary of the M. A. Jackson survey, the same being the western boundary of the James Sanderson survey; thence south with the east line of said Jackson and west line of said Sanderson surveys to the center of the track of the Texas and Pacific Railway; thence westward with the center of said railway track to the point where it intersects the center of Main street, in the City of Fort Worth; thence northerly with the center of main street to the center of the court house; thence north 30 degrees west to the intersection of the north boundary line of the A. Gouhenant survey; thence west with the north line of said Gouhenant survey to its northwest corner; thence south to the center of Trinity river; thence westward with the center of said river to Silver creek; thence westward with the center of Silver creek to the west boundary of Tarrant county, shall constitute the seventeenth Judicial District, and the district court shall be begun and held therein as follows: On the second Mondays in January, April and September, and may continue in session until the business is disposed of.

Section 2. All that part of said Tarrant county lying north and east of the line as defined in the foregoing section of this act shall constitute the forty eighth judicial district, and the district court shall be begun and held therein as follows: On the second Mondays in February, May and October, and may continue in session until the business is disposed of.

Sec. 3. The fact that there is but a short time until adjournment sine die of this Legislature renders it impossible that this bill may be read on three several days as required by the constitution, therefore an emergency exists for the suspension of the constitutional rule requiring bills to be read on three several days and it is so suspended.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the thirteenth day of April, A. D. 1891, but was not signed by him nor returned to the house in which it originated with

his objections thereto; nor were any objections thereto filed by him in this office after adjournment of the Legislature, within the time prescribed by the constitution. This act thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

LANDS—SALE AND LEASE OF SCHOOL AND OTHER PUBLIC LANDS.

Sec.

1. Amends sections 11, 14 and 15, act of April 1, 1889.
- (11.) Penalties for failure to pay interest when due.
- (14.) Lands to be leased by Commissioner of the General Land Office; terms.

Sec.

- (15.) Applications for lease, terms, etc.; leased land subject to sale, when; penalty for violating restrictions on grazing.
2. Emergency clause.

Chap. 114.—[S. H. B. No. 481.] An act to amend sections 11, 14 and 15 of an act to amend sections 5, 8, 11, 13, 14, 15, and 22, chapter 99, of an act entitled, "an act to provide for the sale of all lands heretofore or hereafter surveyed and set apart for the benefit of the public free schools, the University, and the several asylums, and the lease of such lands and of the public lands of the State, and to prevent the free use, occupancy, unlawful enclosure or unlawful appropriation of such lands, and to prescribe and provide adequate penalties therefor," approved April 1, 1887, approved April 8, 1889.

Section 1. Be it enacted by the Legislature of the State of Texas: That an act to amend sections 5, 8, 11, 13, 14, 15 and 22, chapter 99, of an act to provide for the sale of all lands heretofore or hereafter surveyed and set apart for the benefit of the public free schools, the University and the several asylum lands and the lease of such lands and of the public lands of the State and to prevent the free use and occupancy, unlawful enclosure, or unlawful appropriation of such lands and to prescribe and provide adequate penalties therefor, approved April 1, 1887, approved April 8, 1889, be it so amended as to hereafter read as follows, to-wit:

Section 11. If upon the first day of November of any year the interest due on any obligation remains unpaid, the purchaser shall have until the first day of April following in which to pay said interest, and for said default said purchaser shall pay twenty per cent. penalty on said interest then past due; and if said purchaser shall fail to pay said past due interest and penalty on or before said first day of April the Commissioner of the General Land Office shall endorse on such obligation, "Land forfeited," and shall cause an entry to that effect to be made on the account kept with the purchaser, and thereupon said land shall be forfeited to the State without the necessity of re-entry or judicial ascertainment, and shall revert to the particular fund to which it originally belonged and be resold under the provisions of this act or any future law; provided, if any purchaser shall die, his heirs or legal representatives shall have one year in which to make payment after the first day of November next after such death; and if any purchaser shall fail to reside upon and improve in good faith the land purchased by him, he shall forfeit said land and payment thereon made to the State, in the same manner as for non-payment of interest, and such land shall again be for sale as if no such sale or forfeiture had occurred; or if he shall fail to make the proof of occupancy within the time and in the manner prescribed by the regulations of the Commissioner of the General Land Office, as provided for in section 9 of this act, he shall in like manner forfeit the land and all payments thereon to the State; provided further, that nothing in this section contained shall be construed to inhibit the State from

instituting such legal proceedings as may be necessary to enforce such forfeiture, or to protect any other right to such land, which suits may be instituted by the Attorney General under the direction of the Governor, in the proper court of the county in which the land lies; provided, this section shall be printed on the back of the receipt.

Section 14. The public lands and all lands belonging to the public free schools, asylums or university fund shall be leased by the Commissioner of the General Land Office, under the provisions of this act. All of such lands lying west of the Pecos river, and all of such lands lying south of the Texas and Pacific Railroad, except the counties of Concho, McCulloch, Coke, Sterling, Glasscock, Midland, Ector, Tom Green, Howard and Martin, and all university lands shall be leased for a period of not longer than ten years, and all other such lands lying north of the Colorado river, and north of the Texas and Pacific, and the counties hereinbefore excepted from the ten-year lease, shall be leased for a period not longer than five years, and the lessee shall pay an annual rental of four cents per acre for all lands leased; provided, that the university lands may be leased at three cents per acre per annum, which rental shall be paid each year in advance, the first payment to be made at the time the lease is executed, and if at the termination of any lease any of such lands are not in demand for actual settlement they may be again leased for another five years, and the lessees thereof, whose term of lease has expired, shall have the refusal of such land as he has been leasing on the terms and at the price that may be fixed therefor by the Commissioner of the General Land Office, and all leases shall be executed under the hand and seal of the Commissioner of the General Land Office, and shall be delivered to the lessee or his duly authorized agent, and such leases shall not take effect until the first payment of annual rent is paid and the lease duly filed for record in the county where the land lies, or to which it may be attached for judicial purposes, and it shall not be necessary for the Commissioner to acknowledge such lease before the same is placed on record.

Section 15. Any person desiring to lease any portion of public lands belonging to any of the funds mentioned in this act, the sale and lease of which is not provided for by any other law, shall make application in writing to the Commissioner of the General Land Office, specifying and describing the particular lands he desires to lease; thereupon, the Commissioner, if satisfied the lands are not in demand for purposes of actual settlement and that such lands can be leased without detriment to the public interest, shall notify the applicant in writing that his proposition to lease is accepted, and thereupon he shall execute and deliver to the lessee in the name of the State a lease of said land for such terms as may be agreed upon, not longer than the period of time fixed by this act, according to its location, and deliver the same to such lessee when satisfied that the lessee has paid to the Treasurer of the State the rental for one year in advance; no lands which are now, or which may hereafter be classified as grazing lands within the territory where ten years lease is authorized, as set forth in the preceding section of this act, shall be subject to sale during the term of the lease contract thereof, and the possession of the lessee shall not be disturbed during the term of his lease. All lands the lease of which is fixed by this act at not exceeding five years, shall be leased subject to sale; provided, that if any lessee has actually settled upon any section of land included in his lease, and erected thereon his residence and substantial improvements, for permanent set-

tlement such section shall not be sold, nor shall such settler be disturbed during the term of his lease, and all leases of agricultural lands embraced in the territory where a lease not exceeding ten years is provided for in this act, shall be subject to sale to actual settlers, except when settlement and improvements are made as hereinbefore provided for in this section, by the lessee. In all cases when an actual settler may desire to settle on any grazing land, which may have been leased under a five year contract of lease, such actual settler shall first erect thereon substantial improvements of the value of not less than one hundred dollars, within four months after making his application to purchase. Satisfactory proof of which shall be made under such regulations as the Commissioner of the General Land Office may require; thereupon the land shall be awarded to him. In such case the lessee shall have a pro rata credit on his next years rental of any other lands which may be included in his lease contract, or the money for the unexpired year of the lease of such purchased portion of his leased lands refunded to him by the Treasurer of the State, as he may elect. No purchaser or other person than the lessee shall be permitted to turn loose within such leasehold more than one head of horses or mules or cattle, for any ten acres of land purchased, owned or controlled by him and unenclosed; or in lieu thereof, four head of sheep or goats to every ten acres so purchased, owned or controlled, and unenclosed. Each violation of this provision of this act, which restricts the number of stock that may be turned loose on lands leased from the State, shall be an offense, and the owner on conviction, shall be punished by a fine of not less than one dollar for each head of stock he may so turn loose and each thirty days violation of the provisions of this section shall constitute a separate offense. None of the requirements for improvements to be made by an applicant to purchase shall be required of any person who shall desire to buy and settle upon any agricultural lands under lease made under the provisions of this act. In all cases where any lessee shall forfeit his contract of lease by failure to pay annually in advance the money due on his lease, whether such lease was heretofore, or may hereafter be made, and whether for a ten or five year lease, the lands embraced in any such contract shall thereafter be leased subject to sale as hereinbefore provided for.

Sec. 2. The near approach of the close of the present session making it impossible for this bill to be read on three several days, a public emergency exists for the suspension of the constitutional rule requiring bills to be read on three several days, said rule is therefore suspended.

Approved April 28, 1891.

LANDS—PATENTS FOR.

- Sec. 1. Patents to issue when fee has been deposited and not withdrawn.
2. Emergency clause.

CHAP. 115.—[H. B. No. 538.] An act to provide for the issuance and delivery of patents to land when the legal fee has been once deposited, though lost by defalcation.

Section 1. Be it enacted by the Legislature of the State of Texas: That the Commissioner of the General Land Office is hereby authorized and required to issue and deliver all patents now or hereafter to be ready

for issuance and delivery, to the person entitled to receive the same when it appears from the books of said office that the legal fee for said patent has been at any time heretofore deposited in said office, and not withdrawn.

Sec. 2. The fact that there are now many patents in the General Land Office ready for delivery, which cannot under existing law, be delivered without requiring double fee from the citizens, creates an emergency and a public necessity that the constitutional rule requiring bills to be read on three several days be suspended and that this act take effect from and after its passage, and it is so enacted.

[Note.—The foregoing act originated in the House, and passed the same by a vote of 75 yeas and 6 nays; and passed the Senate by a vote of 27 yeas and no nays.]

Approved April 28, 1891.

PUBLIC EDUCATION—TEACHERS' CERTIFICATES.

Sec.

1. Board of examiners, how constituted; record of certificates issued.
2. (a) Examinations, when made.
3. (b) Subjects of examination for third grade certificates.
- (c) Same for second grade.
- (d) Same for first grade.
- (e) Examinations to be in English and written.
- (f) Reports of board of examiners, to show what; issuance of certificate.
- (g) Period for which certificates are valid; no certificate shall be renewed.
4. Duty of teachers to attend summer normal and county institutes.
5. Salaries of teachers; admission of pupils over and under scholastic age.
6. Teachers' registers, to show what; registers open to inspection.
- (b) Teachers to make monthly reports.
- (c) To make report at end of school term.

Sec.

7. Teachers holding diplomas which rank as first grade certificates, and certificates from Texas Normal schools, not subject to examination.
8. State certificates; examinations prescribed by the State superintendent, how made; State board of examiners appointed by the superintendent; district board of examiners, duties of.
- (b) Fee payable to district board.
- (c) Method and subjects of examinations.
9. City board of examiners, how constituted; duties of.
- (b) Teacher contracting with trustees shall exhibit certificate; penalty for approving contract without certificate.
10. Certificates and diplomas, where valid.
11. Repealing clause.
12. Emergency clause.

CHAP. 116.—[H. B. No. 106.] An act to provide for the issuance of certificates to teachers in the public schools of Texas, and prescribing their duties as such.

Section 1. Be it enacted by the Legislature of the State of Texas: That three white teachers, holding first grade certificates, to be appointed by the county superintendent or ex-officio superintendent (provided in the absence of teachers holding first-grade certificates he may appoint any other competent persons), shall constitute the county board of examiners, and shall receive from each applicant examined for a certificate the sum of three dollars, which shall be deposited with the county superintendent or ex-officio superintendent when the application for examination is issued, and the county superintendent or ex-officio superintendent shall keep a record of all certificates issued by himself, and all other certificates and diplomas rendered legal by this act, held by teachers who are teaching in his county, giving the name, age, sex, color, nativity of the person and the date, grade and length of time of each certificate. No certificate shall be issued until there has been an examination as provided for in this act, and the questions and answers deposited with the county superintendent or ex-officio superintendent, and at least two members of the board must have been present during said examination.

Sec. 2. (a.) Any one desiring to teach a public school shall present a certificate from three good citizens known to the county superintendent or ex-officio superintendent that the applicant is of a good moral character and exemplary habits. The county superintendent or ex-officio superintendent shall thereupon unless satisfied that some good cause exists for refusing the certificate hereinafter mentioned, recommend him to the board of examiners for examination, which said board of examiners shall be convened by the county superintendent or ex-officio superintendent on the first Thursday and Friday following the first Monday in January, April, July and October of each year, for the purpose of examining applicants to teach. The board of examiners shall use questions prescribed by the state superintendent of public instruction; provided, that from any unavoidable cause the board of examiners cannot hold their meeting on the days prescribed in this section, the said board shall meet as soon as possible thereafter on the call of the chairman.

Sec. 3. (b.) Applicants for third grade certificates shall be examined in spelling, reading, writing, elementary arithmetic, English grammar and geography.

(c.) Applicants for second grade certificates shall be examined in the branches prescribed for the third grade and also in composition, history of the United States, history of Texas, practical arithmetic and school management and methods of teaching.

(d.) Applicants for first grade certificates shall be examined in the branches prescribed for second and third grades, and also in the elementary branches of algebra, geometry, natural philosophy, physiology, physical geography and civil government.

(e.) Such examinations shall be conducted in the English language and in writing, and no applicant shall receive a certificate unless the board of examiners be satisfied that he is competent to teach the branches prescribed for the grade of certificate applied for in the English language.

(f.) The board of examiners shall examine each applicant as to his competency to teach the branches named in the preceding clauses in the English language, and shall make a report under oath to the county superintendent or ex-officio superintendent, which report shall state who of the board were present at such examination, that the applicant was examined on all the branches of study embraced in the grade of certificate recommended, and that such applicant is competent to teach and qualified to teach all such branches, and the county superintendent or ex-officio superintendent shall, if such report be favorable, issue a certificate of competency to the applicant according to the grade recommended by the board of examiners, authorizing his employment by the trustees of any school district in the county in which the same is issued. Provided, no teacher shall receive a certificate of any grade unless he makes a grade of at least fifty per cent in every branch, and an average grade of at least seventy per cent in all branches in which he is examined.

(g.) A third grade certificate shall be valid for a period of one year only from date thereof. A second grade certificate shall be valid for one year only unless the applicant shall make a grade of at least sixty per cent. in every branch upon which he is examined and a general average of at least eighty per cent. in all branches upon which he is examined when said certificate shall be valid for a period of two years from date thereof. A first grade certificate shall be valid for one year only unless the applicant shall make a grade of at least sixty per cent. in all branches upon which he is examined and an average grade of at least eighty per

cent. in all branches upon which he is examined, in which case it shall be valid for a period of two years. If he shall make a grade of at least seventy per cent. in every branch upon which he is examined, and an average of not less than ninety per cent. in all branches upon which he is examined, and then said certificate shall be valid for three years from date thereof; provided that no certificate of any grade shall ever be renewed.

Sec. 4. It shall be the duty of all teachers in the public schools of this state to attend the summer normal and county institutes as far as possible.

Sec. 5. Teachers may receive salaries not exceeding the following sums: Teachers with first grade certificate, seventy-five dollars per month; teachers with second grade certificates, fifty dollars per month; teachers with third grade certificates, thirty dollars per month; provided that this restriction shall not apply to the salaries of teachers in districts that levy a local tax for the school purposes. Teachers shall admit all children over and under the scholastic age into the public schools upon such terms as may be agreed to by teachers and trustees; provided, that in admitting pupils over and under the scholastic age, the school shall not be over-crowded to the neglect and injury to pupils within the scholastic age.

Sec. 6. Teachers shall keep daily registers in which the names, ages and studies of the pupils and their daily attendance shall be recorded, and such other matters as may be prescribed by the state superintendent. Said registers shall be open to the inspection of all parents, school officers and other persons who may be interested, to examine the same.

(b.) All teachers shall make monthly reports on such subjects as may be designated by the state superintendent or county superintendent, to be approved by a majority of the trustees of the district, and shall file the same with the county superintendent when they present their vouchers for their month's salaries.

(c.) They shall make such reports at the end of the school term as may be prescribed by the state superintendent, and until such term reports are made the trustees shall not approve vouchers for last month's salaries, and until they are returned to and approved by county superintendents, county superintendents shall not approve their vouchers for last month's salaries, nor shall county treasurers pay the same. All monthly and term reports shall be made under oath, and county superintendents are hereby empowered to administer oaths for such purposes, without compensation.

Sec. 7. Teachers holding a diploma from a Texas State Normal School or from the Peabody Normal School of Nashville Tenn., may teach in the public schools of this State during good behavior, and such diplomas shall rank as first grade certificates, and such teachers shall not be subject to examination by any board of examiners. A teacher holding a first or second grade certificate from a Texas State Normal School may teach in the public schools in this State for three years after issuance, or during good behavior, and shall not be subject to examination by any board of examiners. A teacher holding a certificate from a summer normal school of Texas may teach anywhere in the State for two years or during good behavior, and shall not be subject to examination by any board of examiners. The state superintendent shall prescribe rules for granting certificates by summer normals.

Sec. 8. Any teacher who may have had two years experience in teaching, and who shall pass satisfactorily an examination prescribed by the

state superintendent, and shall make a grade of not less than sixty per cent in any one branch, and an average grade of not less than seventy per cent, shall be entitled to a state certificate, good throughout the State of Texas for a period of three years from date of issuance. If he shall make an average grade of not less than seventy per cent., and not less than seventy per cent. in any one branch, he shall receive a certificate which shall be good throughout the state for a period of five years from date of issuance. If he shall make an average of not less than ninety per cent. and not less than seventy per cent. in any one branch he shall receive a state certificate good throughout Texas for a period of ten years or during good behavior. And during the time in which the certificate provided for in this act is specified as valid the teacher holding the same shall not be subject to examination by any board of examiners. The state superintendent shall prepare a uniform set of questions for these examinations. He shall prescribe the time, place and manner of holding these examinations. The answers to all questions shall be forwarded to the department of education at Austin and shall be examined and graded by a state board of examiners, consisting of not less than five competent teachers, appointed by the state superintendent. Any person desiring to enter this examination shall present to the district board of examiners a certificate evidencing that he is of good moral character, and said certificate shall accompany his examination papers. Three persons in each senatorial district shall be appointed by the state superintendent, who shall constitute the district board of examiners and shall hold annual examination in that district. They shall certify that all the rules and regulations and directions of the state superintendent have been fully and faithfully complied with; they shall transmit all papers to the state superintendent on close of examination.

(b.) Before entering the examination each teacher shall pay to the district board examiners the sum of three dollars, two dollars of which shall be retained by the district board, in payment of their services, and one dollar shall be forwarded to the state superintendent at Austin, to be used in paying the state board of examiners for their services; provided, that this fee shall in all cases be paid in advance, and shall in no case be refunded. These certificates shall rank as first grade certificates.

(c.) All examinations shall be conducted in the English language in writing and written with ink, and shall be held in the following branches: Reading, writing, spelling, arithmetic, algebra, plane and solid geometry, plane trigonometry, grammar, rhetoric, English literature and composition, United States, Texas and general history, geography, including map drawing, physical geography, physiology, natural philosophy, chemistry, civil government, school management and methods of teaching, and elementary psychology.

Sec. 9. A city or town with a scholastic population of not less than six hundred which has assumed exclusive control of its schools, and which levies a local tax for educational purposes, and which has employed a superintendent of city schools, may have a city board of examiners. Said board of examiners shall in all such cases consist of the superintendent of the city schools, together with two other persons who shall be appointed by him, and who shall be teachers holding first grade certificates, and the superintendent shall not be subject to examination. This city board of examiners are hereby authorized to issue certificates valid only in the city in which they are issued, and such certificates shall

be valid for a period of not more than three years from date thereof, and all certificates heretofore issued by board of city examiners are hereby validated; provided that a city or town which is authorized by the provisions of this act to have a city board of examiners may, at the discretion of the superintendent of the city schools, employ a teacher of some special branch not included in the requirements for a state certificate without requiring an examination or teachers certificate.

(b.) Any teacher desiring to teach in any city, town or district in this state shall, before contracting with any board of trustees or with any city school board, exhibit a teacher's certificate valid in the city, town or school district. And any county or city superintendent or board of trustees who shall approve any teacher's contract or voucher until the person has presented a valid certificate, shall be guilty of a misdemeanor and on conviction thereof shall be fined not less than \$25 nor more than \$100; and any teacher who shall teach in any public school in this state without having a valid certificate shall not receive from the free school fund any compensation for such services.

Sec. 10. A county certificate shall be valid only in the county in which it is issued. A city certificate shall be valid only in the city in which it is issued. A summer normal certificate, a state certificate, a certificate from a Texas state normal school, a diploma from a Texas state normal school or the Peabody Normal at Nashville, Tennessee, shall be valid anywhere in Texas. Certificates shall be valid for the time they are issued, unless cancelled by the authority issuing the same for good cause shown. Any teacher who may hold a diploma conferring on him the degree of Bachelor of Arts, Bachelor of Science, or any higher academic degree from any college or university of the first-class, and who shall have taught for a period of not less than five years in Texas, may upon the payment of a fee of five dollars, which shall be placed to the credit of the state available school fund, receive from the state superintendent of public instruction a certificate of the first grade which shall be valid anywhere in this state during good behavior.

Sec. 11. All laws and parts of laws conflicting with this act be and the same are hereby repealed.

Sec. 12. The near approach of the end of the session and the great number of bills before the Legislature, creates an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and it is so enacted.

Approved April 28, 1891.

TAXATION—STATE AD VALOREM TAX.

- Sec. 1. Ad valorem tax of sixteen and two-thirds cents for 1891, and fifteen cents annually thereafter on one hundred dollars value.
2. Emergency clause.

CHAP. 117.—[S. H. B. No. 256.] An act to provide for the levy and collection of an annual ad valorem State tax for general revenue purposes of fifteen cents on the hundred dollars.

Section 1. Be it enacted by the Legislature of the State of Texas: There shall be levied and collected for the year 1891, an ad valorem tax of sixteen and two thirds cents, and annually thereafter an ad valorem tax of fifteen cents on the hundred dollars of the cash value thereof estimated

in lawful currency of the United States on all real property situated and on all property owned in the State on the first day of January in each and every year, and on all property sent out of the State prior to the first day of January for the purpose of evading the payment of taxes thereon, and afterwards returned to the State, except so much thereof as may be exempted by the constitution and laws of the State or United States, which cash value shall be estimated in the manner prescribed by law.

Sec. 2. The near approach of the close of the session creates an imperative public necessity and an emergency exists, wherefore, the constitutional rule requiring all bills to be read on three several days should be suspended, and that this bill be put on its third reading and final passage, and it is so enacted.

Approved April 29, 1891.

QUARANTINE.

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| <p>Sec.</p> <ol style="list-style-type: none"> 1. Governor may declare quarantine. 2. Governor to appoint State health officer. 3. Pay of health officer. 4. Temporary quarantine, when and by whom declared. 5. State quarantine law to remain in force on the coast; changes in stations, etc. 6. Local quarantine law to remain in force; disputes between localities, how decided. 7. Bond and term of office of health officer; may be removed by the governor. 8. County or corporate authorities to establish stations, when; subject to rules prescribed by the governor or State health officer. 9. Shall furnish persons detained with subsistence and shelter. 10. Expenses of enforcing quarantine, how paid; commissions and pay of officers; authorized to administer oaths; false swearing, how punished. | <p>Sec.</p> <ol style="list-style-type: none"> 11. Governor may appoint health officer, when. 12. Vessels arriving from infected port may be taken and held by health officer until fines are paid or vessel replevied. 13. Payment of fine shall not release vessel from quarantine. 14. Appointment, duties and salaries of county physicians. 15. Commissioners court may direct county physicians to declare quarantine, establish stations, etc., payment of expenses; incorporated town or city may maintain local quarantine. 16. Bond of health officer at Galveston. 17. Governor and State health officer to prescribe rules for disinfection of vessels and cargoes. 18. Laws in conflict are herewith repealed; penal statute to punish violations of quarantine laws shall remain in force. 19. Emergency clause. |
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CHAP. 118.—[H. B. No. 623.] An act to regulate the establishment of quarantines in the State of Texas, and in the counties, cities and towns thereof, and to repeal all laws and parts of laws in conflict therewith.

Section 1. Be it enacted by the Legislature of the State of Texas: That the Governor is empowered to issue his proclamation declaring quarantine on the coast or elsewhere within this State, whenever in his judgment quarantine may become necessary, and such quarantine may continue for any length of time as in the judgment of the Governor, the safety and security of the people may require.

Sec. 2. It shall be the duty of the Governor of the State of Texas, and he is hereby authorized and empowered to select and appoint, by and with the advice and consent of the Senate, from the most skillful physicians of the State of Texas, one physician who shall be known as health officer of the State, and shall from previous and active practice be familiar with yellow fever and pledged to the importance of both quarantine and sanitation.

Sec. 3. Such health officer shall, during the time he is actively engaged in public duty, receive for his services ten dollars per day and all necessary traveling expenses, a bill of which must be made out in detail, then approved by the Governor, on which approved account the Comptroller shall issue his warrant on the Treasurer for the amount of such approved account.

Sec. 4. Whenever the Governor has reason to believe that the State of Texas is threatened at any point or place on the coast, border or elsewhere within the State with the introduction or dissemination of yellow fever, contagion or any other infectious and contagious disease that can and should, in the opinion of the State health officer, be guarded against by State quarantine, he shall, by proclamation, immediately declare said quarantine against any and all such places and direct the State health officer to promptly establish and enforce the restrictions and conditions imposed and indicated by said quarantine proclamation, and when from any cause the Governor cannot act, and the exigencies of the threatened danger require immediate action, the State health officer is empowered to declare quarantine as prescribed in this article and maintain the same until the Governor shall officially take such action as he may see proper.

Sec. 5. The laws in regard to State quarantine shall remain and be in full force and operation on the coast or elsewhere in the State as the Governor or health officer may direct and be enforced as heretofore with such additional changes as the provisions of this act prescribe and with such additional changes in station and general management as the Governor may think proper.

Sec. 6. The law in regard to local quarantine by the inhabitants of any point or points on the coast or elsewhere in the State shall remain in full force when in conformity with this act; provided, that in all differences and disputes between any such points, contiguous or remote within this State, such differences and disputes shall be immediately by the local health authorities, if any, and if none, by the inhabitants themselves, reported and submitted to the Governor, and on the receipt of such report he shall forthwith order the State health officer to such points with instructions to investigate the same and report the exact condition of things, and upon investigation of such report shall issue his proclamation declaring the determination of the issue and by said proclamation the aforesaid differences shall be governed and determined.

Sec. 7. Said health officer shall give a bond with two good and sufficient sureties in the sum of ten thousand dollars, made payable to the Governor, to be approved by him and conditioned for the honest and impartial performance of his duties and such health officer shall hold his position for the term of two years, subject however, to removal at any time by the Governor whenever, in his judgment, the public good demands such removal.

Sec. 8. Whenever quarantine is declared by the Governor or by any county or corporate authorities in the State, it shall be the duty of such authorities to establish a quarantine station or stations where any person may be detained for such length of time as, in the discretion of the quarantine officers, the public safety may demand; provided, that all county and municipal quarantine shall be subordinate, subject to and regulated by such rules and regulations as may be prescribed by the Governor or State health officer.

Sec. 9. It shall be the duty of the State health officer to furnish persons detained by him, with necessary shelter and subsistence (not including crews of vessels, except such as are removed by the quarantine officers from infected vessels) and to provide all other things essential for the protection and comfort of those held in quarantine, and all such expenses, authorized by the State health officer and approved by the Governor, shall be paid by the State.

Sec. 10. All the cost and expenses of enforcing and maintaining the

general quarantine or such as are ordered by the Governor or State health officer shall be paid out of the fund appropriated for quarantine purposes. All quarantine officers appointed by the Governor shall be selected and commissioned by the Governor of the State and shall be paid by the State, and all health authorities of the State or of any county or city thereof shall obey the rules and regulations prescribed by the Governor or State health officer. The regular officer in charge of regular established quarantine stations on the coast shall be allowed ten dollars per day while on duty; temporary officers, or those commissioned by the Governor to guard against threatened epidemics or those temporarily assigned to duty by the health officer of the State, under the provisions of section 4 of this act, shall be allowed and paid not more than five dollars per day and such other pay for extra expenses actually incurred as may be deemed just by the Governor and State health officer. All quarantine officers, whether of towns, cities, counties or State shall be authorized to administer oaths to any person or persons suspected of violating any quarantine regulations; and any person or persons swearing falsely shall be punished according to the provisions of the penal code.

Sec. 11. Whenever, on the coast of Texas or elsewhere in this State, the authorities of any county, town or city, fail, refuse or neglect to establish quarantine as provided in the preceding article, then and in that event the Governor shall have the power, and it shall be his duty to appoint a health officer and to prescribe such regulations for the government of the same as he may deem necessary.

Sec. 12. Any vessel arriving at any of the quarantine stations of this State, designated by the proper authorities, from any infected port or district without a clean bill of health from the proper officers from said port or district, shall be taken possession of by the health officer or other quarantine authority at the station at which said vessel arrives, and be held by the same until all fines that may have been assessed against the master of said vessel for a violation of the quarantine laws, rules and regulations, shall have been paid, or until said vessel shall have been replevied in accordance with law.

Sec. 13. The payment of the fine which may be assessed against the master of such vessel shall not operate as a release or discharge of the vessel from quarantine, but the same rules shall apply as in case of other vessels placed in quarantine.

Sec. 14. It shall be the duty of every County Judge within the State of Texas, after each general election of State and county officers, or as soon thereafter as practicable, to select from the physicians of the respective counties, one of high character and recognized ability, who shall be known as "County physician." It shall be the duty of said county physician to establish, maintain and enforce local quarantine for his county whenever declared by proclamation of Commissioners court; to furnish supplies, select medical assistants, guards and perform all other duties coincident to a reasonable, economic and consistent quarantine. The salary of county physicians must be agreed to and be paid by their respective counties, but the county physician shall receive no salary except when quarantine has been established and he is actually engaged in such service. County physicians shall in all quarantines establish rules in harmony and accord with the rules prescribed by the State health officer; shall respect and obey instructions from said officer and make written reports to him of their official acts, whenever required to

do so, giving cause and history of epidemic, number of deaths and recoveries, and all other facts of statistic or scientific value.

Sec. 15. Whenever the commissioners court of any county has reason to believe that they are threatened at any point or place within or without the county limits with the introduction or dissemination of a dangerous, contagious or infectious disease that can and shall be guarded against by quarantine, direct their county physician to declare and maintain said quarantine against any and all such dangerous diseases; to establish, maintain and supply stations or camps for those held in quarantine; to provide hospitals, tents or pest houses for those sick of contagious and infectious disease; to furnish provisions, medicine and all other things absolutely essential for the comfort of the well and the convalescence of the sick. The county physician shall keep an itemized account of all lawful expenses incurred by local quarantine, and his county shall assume and pay them as other claims against the county are paid. Chartered cities and towns are embraced within the purview of this article, and the mere fact of incorporation does not exclude them from the protection against epidemic diseases given by the Commissioners court to other parts of their respective counties. The medical officers of chartered cities and towns can perform the duties granted or commanded in their several charters but must, (if the county physician is not, as is frequently the case, the city physician, also,) be amenable and obedient to rules prescribed by the State health officer. This article, however, must not be construed as prohibiting any incorporated town or city from declaring, maintaining and paying for a local quarantine.

Sec. 16. The quarantine or health officer at Galveston, Texas shall give bond, with two or more good and sufficient sureties, payable to the Governor, in the sum of \$10,000 conditioned for the care and preservation of any steam vessel or vessels belonging to the State at his station and for the faithful performance of his duty.

Sec. 17. It is hereby made the duty of the Governor and State health officer upon completion of the disinfecting warehouse at Galveston or any port on the coast of Texas, to prescribe such rules and regulations as may be necessary for the disinfection of all vessels and their cargoes and passengers arriving at said port from any infected port or district. The object of such rules and regulations being to provide safety for the public health of the State without unnecessary restrictions upon commerce and travel.

Sec. 18. All laws and parts of laws in conflict herewith are hereby repealed, and all penal statutes heretofore enacted to punish violators of quarantine laws and rules shall remain in full force.

Sec. 19. There being no law upon the subject of quarantine adequate to the protection of public health, and the near approach of the season of the year when quarantine will have to be declared, a public necessity and an emergency exists, requiring the suspension of the constitutional rule requiring bills to be read on three several days, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act originated in the House and passed the same—vote not given; and passed the Senate—vote not given.]

Approved April 29, 1891.

THE STATE OF TEXAS,

Department of State.

I, Geo. W. Smith, Secretary of State of the State of Texas, certify that the foregoing laws and resolutions, passed at the regular session of the Twenty-second Legislature, have been carefully examined and compared with the original enrolled bills now on file in this department, and are true copies of said originals.

I further certify that the Twenty-second Legislature convened in the city of Austin, January 13, A. D. 1891, and adjourned April 13, A. D. 1891.

In testimony whereof I have subscribed my name, and have hereto
[Seal.] affixed the seal of the State of Texas, in the city of Austin, May
30, A. D. 1891.

GEO. W. SMITH,
Secretary of State.

RESOLUTIONS.

JOINT RESOLUTION.

[H. J. R. No. 23.] Joint Resolution creating an auditing board to pass on certain claims against the State and to authorize the Governor to direct payment thereof.

Whereas, many claims exist against the State, now unpaid, which accrued during the past administration, for services under the quarantine laws of the State, which claims the Governor declines to order paid, because he is not familiar with the facts and circumstances under which they were created; and,

Whereas, on account of the time which will be required in the investigation and auditing of said claims, the joint committee of the Senate and House of Representatives heretofore appointed to audit said claims, find it practically impossible to perform such service in connection with their regular duties and complete the same during the present session of the Legislature.

Section 1. Therefore, be it resolved by the Legislature of the State of Texas: That the State Health Officer, the Comptroller of Public Accounts and the Attorney General be and they are hereby constituted an auditing board, and they are hereby empowered and directed to inquire into all such claims as may be presented against the state for services rendered under the quarantine laws, under the prior administration, and to approve all such as may be justly payable by the State; and further, that upon the approval of any such claim by the board hereby constituted, the Governor be and he is hereby authorized to direct payment thereof out of the deficiency appropriation.

Sec. 2. The large number of the claims provided for in the foregoing section which have not been paid and which should be audited and paid without delay, creates an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and an emergency exists that the resolution shall take effect and be in force and be in effect from and after its passage and it is so enacted.

[Note.—The foregoing Joint Resolution originated in the House and passed the same by a vote of 74 yeas and 3 nays; and passed the Senate by a vote of 24 yeas and no nays.]

Approved March 30, 1891.

JOINT RESOLUTION.

[S. J. R. No. 12.] Joint Resolution confirming the location of the boundary line established by the United States Commissioner between No Man's Land and Texas, and Texas and New Mexico, under an act of Congress of June 5, 1858.

Section 1. Whereas an act of Congress approved June 5, 1858, provided for Commissioners to locate and mark the boundary lines between the territories of the United States and the State of Texas; and

Whereas in accordance with said act, a survey was made of the boundary line between the Public Strip—otherwise known as No Man's Land—

and between Texas and New Mexico by John H. Clark, U. S. Commissioner appointed under said act, A. D. 1858; And

Whereas, it appears from the report of the said Commissioner to the General Land Office at Washington, that said surveying was carefully done, consuming over two years on the ground in making the same; and

Whereas, said boundary line so located has been acquiesced in by the State of Texas and the United States Government by surveying up to it and selling the lands so surveyed, or parts of it; and

Whereas, until recently no part of said boundary lines have ever been officially agreed upon or accepted by the General government or the State of Texas, as contemplated by the act of Congress, authorizing the survey; and Whereas, on the 4th day of March A. D. 1891, the Congress of the United States confirmed the boundary lines as surveyed by said Commissioner, John H. Clark, between No Man's Land and Texas, and between Texas and New Mexico established under the act of Congress of June 5, 1858;

Therefore, be it resolved by the Senate and House of Representatives of the State of Texas: That the boundary line between the Public Land Strip—otherwise known as No Man's Land—and Texas, and between Texas and New Mexico, established by John H. Clark, Commissioner under the act of the United States Congress, approved June 5, 1858, be and the same is hereby accepted, ratified and confirmed on the part of the State of Texas, as the true boundary line between said Public Land Strip and Texas, and between Texas and New Mexico.

Sec. 2. And, whereas, the near approach of the close of the present session of the Legislature renders it unlikely that this resolution can be passed in the regular way, and the fact that there is much uncertainty as to the location of said boundary line, creates an emergency and an imperative public necessity which requires that the constitutional rule requiring bills to be read on three several days be suspended, and the same is so suspended, and this resolution take effect from and after its passage, and it is so enacted.

[Note.—The foregoing joint resolution originated in the Senate and passed the same—vote not given; and passed the House by a vote of 71 yeas and no nays.]

[Note.—The foregoing joint resolution was presented to the Governor of Texas for his approval on the twenty-fifth day of March, 1891, but was not signed by him, nor returned to the house in which it originated with his objections thereto within the time prescribed by the constitution, and thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

JOINT RESOLUTION.

[S. J. R. No. 19.] Joint Resolution amending Section 4, Article 6, of the Constitution of the State of Texas.

Section 1. Be it resolved by the Legislature of the State of Texas: That section four of article six of the Constitution of the State of Texas be so amended as to hereafter read as follows:

Section 4. In all elections by the people the vote shall be by ballot, and the Legislature shall provide for the numbering of tickets and make

such other regulations as may be necessary to detect and punish fraud and preserve the purity of the ballot box; and the Legislature may provide by law for the registration of all voters in all cities containing a population of ten thousand and inhabitants or more.

Sec. 2. That the Governor of this State shall issue his proclamation ordering an election to be held on the second Tuesday in August, A. D. 1891, on this amendment, in accordance with article 17, section 1, of the Constitution; and those voting for the adoption of this amendment shall have written or printed on their ballots the words "For the amendment to section four, article six, of the Constitution, relating to voting;" and those voting against the adoption of said amendment shall have written or printed on their ballots the words "Against the amendment to section four, article six, of the Constitution, relating to voting."

Approved April 15, 1891.

JOINT RESOLUTION NO. 19.

To amend section 5, article 7, of the Constitution of the State of Texas.

Section 1. Be it resolved by the Legislature of the State of Texas; That section 5, article 7, of the Constitution of the State of Texas be so amended as to hereafter read as follows:

The principal of all bonds and other funds and the principal arising from the sale of the lands hereinbefore set apart to said school fund shall be the permanent school fund, and all the interest derivable therefrom and the taxes herein authorized and levied shall be the available school fund, to which the Legislature may add not exceeding one per cent annually of the total value of the permanent school fund; such value to be ascertained by the Board of Education until otherwise provided by law; and the available school fund shall be applied annually to the support of the public free schools. And no law shall ever be enacted appropriating any part of the permanent or available school fund to any other purpose whatever; nor shall the same or any part thereof ever be appropriated to or used for the support of any sectarian school; and the available school fund herein provided shall be distributed to the several counties according to their scholastic population and applied in such manner as may be provided by law.

Sec. 2. The foregoing constitutional amendment shall be submitted to a vote of the qualified electors for members of the Legislature of the State of Texas, on the second Tuesday in August, 1891, at which election all voters favoring said proposed amendment shall write or have printed on their ballots the words "For the amendment to section 5, article 7, of the Constitution of the State of Texas;" and all the voters opposed to said amendment shall write or have printed on their ballots the words "Against the amendment to section 5, article 7, of the Constitution of the State of Texas."

Approved April 28, 1891.

JOINT RESOLUTION.

[H. J. R. No. 1.]—Joint Resolution to amend Section 11, Article 16, of the Constitution of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas: That section 11, article 16, of the Constitution of the State of Texas shall be amended so as to hereafter read as follows:

Section 11. All contracts for a greater rate of interest than ten per centum per annum shall be deemed usurious, and the first Legislature after this amendment is adopted shall provide appropriate pains and penalties to prevent the same; but when no rate of interest is agreed upon, the rate shall not exceed six per centum per annum.

Sec. 2. The Governor of this State shall issue his proclamation ordering an election on the second Tuesday in August, 1891, at which election the foregoing amendment shall be submitted for adoption by the qualified electors of the State.

Sec. 3. Those voting for the adoption of Section 1 [11] shall have written or printed on their ballots the words "For the amendment to section 11, article 16, of the State Constitution, to reduce rate of interest;" and those voting against said amendment shall have written or printed on their ballots "Against the amendment to section 11, article 16, of the State Constitution, to reduce rate of interest."

Approved April 1, 1891.

JOINT RESOLUTION.

[H. J. R. No. 12.] Joint Resolution to amend Section 20, Article 16, of the Constitution of the State of Texas.

Section 1. Be it resolved by the Legislature of the State of Texas: That section 20, article 16, of the Constitution of the State of Texas be amended so that it shall hereafter read as follows:

Section 20. The Legislature shall at its first session enact a law whereby the qualified voters of any county, justice's precinct, town, city (or such subdivision of a county as may be designated by the commissioners court of said county), may by a majority vote determine from time to time whether the sale of intoxicating liquors shall be prohibited within the prescribed limits.

Sec. 2. The foregoing amendment shall be submitted to the qualified voters of the State on the second Tuesday in August, A. D. 1891. Those favoring its adoption shall have written or printed on their ballots the words "For local control;" those opposed to its adoption shall have written or printed on their ballots the words "Against local control."

[Note.—The foregoing Joint Resolution was presented to the Governor of Texas for his approval on the twenty-first day of March, A. D. 1891, but was not signed by him nor returned to the House in which it originated with his objections thereto within the time prescribed by the constitution, and thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

JOINT RESOLUTION.

[Senate J. R. No. 16.] Joint Resolution to amend Section 1, 2, 3, 4, 5, 6, 7, 8, 11, 12, 16, 25, and 28, Article 5, of the Constitution of the State of Texas.

Be it resolved by the Legislature of the State of Texas: That sections 1, 2, 3, 4, 5, 6, 7, 8, 11, 12, 16, 25, and 28 of article 5, of the Constitution of the State of Texas be so amended as to hereafter read as follows:

Article 5.—Judicial Department.

Section 1. The judicial power of this State shall be vested in one Supreme Court, in Courts of Civil Appeals, in a Court of Criminal Appeals, in District Courts, in County Courts, in Commissioners Courts, in Courts of Justices of the Peace, and in such other courts as may be provided by law. The Criminal District Court of Galveston and Harris Counties shall continue with the district jurisdiction, and organization now existing by law until otherwise provided by law. The Legislature may establish such other courts as it may deem necessary, and prescribe the jurisdiction and organization thereof, and may conform the jurisdiction of the district and other inferior courts thereto.

Section 2. The Supreme Court shall consist of a chief justice and two associate justices, any two of whom shall constitute a quorum, and the concurrence of two judges shall be necessary to the decision of a case. No person shall be eligible to the office of chief justice or associate justice of the Supreme Court unless he be, at the time of his election, a citizen of the United States and of this State, and unless he shall have attained the age of thirty years, and shall have been a practicing lawyer or a judge of a court or such lawyer and judge together at least seven years. Said chief justice and associate justices shall be elected by the qualified voters of the State at a general election, shall hold their offices six years, or until their successors are elected and qualified, and shall each receive an annual salary of four thousand dollars until otherwise provided by law. In case of a vacancy in the office of Chief Justice of the Supreme Court the Governor shall fill the vacancy until the next general election for State officers, and at such general election the vacancy for the unexpired term shall be filled by election by the qualified voters of the State. The judges of the Supreme Court who may be in office at the time this amendment takes effect shall continue in office until the expiration of their term of office under the present Constitution and until their successors are elected and qualified.

Section 3. The Supreme Court shall have appellate jurisdiction only except as herein specified, which shall be coextensive with the limits of the State. Its appellate jurisdiction shall extend to questions of law arising in cases of which the Courts of Civil Appeals have appellate jurisdiction, under such restrictions and regulations as the Legislature may prescribe. Until otherwise provided by law the appellate jurisdiction of the Supreme Court shall extend to questions of law arising in the cases in the Courts of Civil Appeals in which the judges of any Court of Civil Appeals may disagree, or where the several Courts of Civil Appeals may hold differently on the same question of law, or where a statute of the State is held void. The Supreme Court and the justices thereof shall have power to issue writs of habeas corpus as may be prescribed by law, and under such regulations as may be prescribed by law the said courts and the justices thereof may issue the writs of mandamus, procedendo, certiorari and such other writs as may be necessary to enforce its jurisdiction. The Legis-

lature may confer original jurisdiction on the Supreme Court to issue writs of quo warranto and mandamus in such cases as may be specified, except as against the Governor of the State. The Supreme Court shall also have power, upon affidavit or otherwise as by the court may be determined, to ascertain such matters of fact as may be necessary to the proper exercise of its jurisdiction. The Supreme Court shall sit for the transaction of business from the first Monday in October of each year until the last Saturday of June in the next year, inclusive, at the capital of the State. The Supreme Court shall appoint a clerk, who shall give bond in such manner as is now or may hereafter be required by law, and he may hold his office for four years, and shall be subject to removal by said court for good cause entered of record on the minutes of said court, who shall receive such compensation as the Legislature may provide.

Section 4. The Court of Criminal Appeals shall consist of three judges, any two of whom shall constitute a quorum, and the concurrence of two judges shall be necessary to a decision of said court; said judges shall have the same qualifications and receive the same salaries as the judges of the Supreme Court. They shall be elected by the qualified voters of the State at a general election, and shall hold their offices for a term of six years. In case of a vacancy in the office of a judge of the Court of Criminal Appeals the Governor shall fill such vacancy by appointment for the unexpired term. The judges of the Court of Appeals who may be in office at the time when this amendment takes effect shall continue in office until the expiration of their term of office under the present Constitution and laws as judges of the Court of Criminal Appeals.

Section 5. The Court of Criminal Appeals shall have appellate jurisdiction coextensive with the limits of the State in all criminal cases of whatever grade, with such exceptions and under such regulations as may be prescribed by law. The Court of Criminal Appeals and the judges thereof shall have the power to issue the writ of habeas corpus, and under such regulations as may be prescribed by law issue such writs as may be necessary to enforce its own jurisdiction. The Court of Criminal Appeals shall have power, upon affidavit or otherwise, to ascertain such matters of fact as may be necessary to the exercise of its jurisdiction. The Court of Criminal Appeals shall sit for the transaction of business from the first Monday in October to the last Saturday of June in each year, at the State Capital and two other places (or the capital city) if the Legislature shall hereafter so provide. The Court of Criminal Appeals shall appoint a clerk for each place at which it may sit, and each clerk shall give bond in such manner as is now or may hereafter be required by law, and who shall hold his office for four years unless sooner removed by the court for good cause, entered of record on the minutes of said court.

Section 6. The Legislature shall, as soon as practicable after the adoption of this amendment, divide the State into not less than two nor more than three supreme judicial districts, and thereafter into such additional districts as the increase of population and business may require, and shall establish a Court of Civil Appeals in each of said districts, which shall consist of a chief justice and two associate justices, who shall have the qualifications as herein prescribed for justices of the Supreme Court. Said Court of Civil Appeals shall have appellate jurisdiction coextensive with the limits of their respective districts, which shall extend to all civil cases of which the District Courts or County Courts have original or appellate jurisdiction, under such restrictions and regu-

lations as may be prescribed by law: Provided, That the decision of said courts shall be conclusive on all questions of fact brought before them on appeal or error. Each of said Courts of Civil Appeals shall hold its sessions at a place in its district to be designated by the Legislature, and at such time as may be prescribed by law. Said justices shall be elected by the qualified voters of their respective districts, at a general election, for a term of six years, and shall receive for their services the sum of three thousand five hundred dollars per annum until otherwise provided by law. Said courts shall have such other jurisdiction, original and appellate, as may be prescribed by law. Each Court of Civil Appeals shall appoint a clerk in the same manner as the clerk of the Supreme Court, which clerk shall receive such compensation as may be fixed by law. Until the organization of the Courts of Civil Appeals and Criminal Appeals, as herein provided for, the jurisdiction, power, and organization and location of the Supreme Court, the Court of Appeals, and the Commission of Appeals shall continue as they were before the adoption of this amendment. All civil cases which may be pending in the Court of Appeals shall, as soon as practicable after the organization of the Courts of Civil Appeals, be certified to and the records thereof transmitted to the proper Courts of Civil Appeals, to be decided by said courts. At the first session of the Supreme Court, the Court of Criminal Appeals, and such of the Courts of Civil Appeals which may be hereafter created under this article after the first election of the judges of such courts under this amendment, the terms of office of the judges of each court shall be divided into three classes, and the justices thereof shall draw for the different classes. Those who shall draw class No. 1 shall hold their offices two years, those drawing class No. 2 shall hold their offices for four years, and those who may draw class No. 3 shall hold their offices for six years from the date of their election and until their successors are elected and qualified; and thereafter each of the said judges shall hold his office for six years, as provided in this Constitution.

Section 7. The State shall be divided into as many judicial districts as may now or hereafter be provided by law, which may be increased or diminished by law. For each district there shall be elected by the qualified voters thereof, at a general election, a judge, who shall be a citizen of the United States and of this State, who shall have been a practicing lawyer of this State or a judge of a court in this State for four years next preceding his election, who shall have resided in the district in which he was elected for two years next preceding his election, who shall reside in his district during his term of office, who shall hold his office for the period of four years, and shall receive for his services an annual salary of two thousand five hundred dollars, until otherwise changed by law. He shall hold the regular terms of his court at the county seat of each county in his district at least twice in each year in such manner as may be prescribed by law. The Legislature shall have power by general or special laws to authorize the holding of special terms of the court, or the holding of more than two terms in any county for the dispatch of business. The Legislature shall also provide for the holding of district court when the judge thereof is absent, or is from any cause disabled or disqualified from presiding. The district judges who may be in office when this amendment takes effect shall hold their offices until their respective terms shall expire under their present election or appointment.

Section 8. The District Court shall have original jurisdiction in all criminal cases of the grade of felony; in all suits in behalf of the State

to recover penalties, forfeitures, and escheats; of all cases of divorce; of all misdemeanors involving official misconduct; of all suits to recover damages for slander or defamation of character; of all suits for trial of title to land and for the enforcement of liens thereon; of all suits for the trial of the right of property levied upon by virtue of any writ of execution, sequestration, or attachment when the property levied on shall be equal to or exceed in value five hundred dollars; of all suits, complaints, or pleas whatever, without regard to any distinction between law and equity, when the matter in controversy shall be valued at or amount to five hundred dollars exclusive of interest; of contested elections; and said court and the judges thereof shall have power to issue writs of habeas corpus, mandamus, injunction, and certiorari, and all writs necessary to enforce their jurisdiction. The District Court shall have appellate jurisdiction and general control in probate matters over the County Court established in each county, for appointing guardians, granting letters testamentary and of administration, probating wills, for settling the accounts of executors, administrators, and guardians, and for the transaction of all business appertaining to estates; and original jurisdiction and general control over the executors, administrators, guardians, and minors, under such regulations as may be prescribed by law. The District Court shall have appellate jurisdiction and general supervisory control over the County Commissioners Court, with such exceptions and under such regulations as may be prescribed by law; and shall have general original jurisdiction over all causes of action whatever for which a remedy or jurisdiction is not provided by law or this Constitution, and such other jurisdiction, original and appellate, as may be provided by law.

Section 11. No judge shall sit in any case wherein he may be interested, or when either of the parties may be connected with him either by affinity or consanguinity within such a degree as may be prescribed by law, or when he shall have been counsel in the case. When the Supreme Court, the Court of Criminal Appeals, the Court of Civil Appeals or any member of either, shall be thus disqualified to hear and determine any case or cases in said court, the same shall be certified to the Governor of the State, who shall immediately commission the requisite number of persons learned in the law for the trial and determination of such cause or causes. When a judge of the district court is disqualified by any of the causes above stated, the parties may by consent appoint a proper person to try said case; or, upon their failing to do so, a competent person may be appointed to try the same in the county where it is pending, in such manner as may be prescribed by law. And the district judges may exchange districts or hold court for each other when they may deem it expedient, and shall do so when required by law. This disqualification of judges of inferior tribunals shall be remedied and vacancies in their offices filled as may be prescribed by law.

Section 12. All judges of courts of this State by virtue of their office, [shall] be conservators of the peace throughout the State. The style of all writs and process shall be "The State of Texas." All prosecutions shall be carried on in the name and by authority of the State of Texas, and shall conclude "Against the peace and dignity of the State."

Section 16. The County Court shall have original jurisdiction of all misdemeanors of which exclusive original jurisdiction is not given to the Justice's Court as the same is now or may hereafter be prescribed by law, and when the fine to be imposed shall exceed \$200; and they shall have exclusive jurisdiction in all civil cases when the matter in contro-

versy shall exceed in value \$200 and not exceed \$500, exclusive of interest; and concurrent jurisdiction with the District Court when the matter in controversy shall exceed \$500 and not exceed \$1000, exclusive of interest, but shall not have jurisdiction of suits for the recovery of land. They shall have appellate jurisdiction in cases civil and criminal of which Justice's Courts have original jurisdiction, but of such civil cases only when the judgment of the court appealed from shall exceed \$20, exclusive of cost, under such regulations as may be prescribed by law. In all appeals from Justice's Court there shall be a trial de novo in the County Court, and appeals may be prosecuted from the final judgment rendered in such cases by the County Court, as well as all cases civil and criminal of which the County Court has exclusive or concurrent or original jurisdiction of civil appeals, in civil cases to the Court of Civil Appeals, and in such criminal cases to the Court of Criminal Appeals, with such exceptions and under such regulations as may be prescribed by law. The County Court shall have the general jurisdiction of a Probate Court; they shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards; grant letters testamentary and of administration; settle accounts of executors; transact all business appertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlement, partition, and distribution of estates of deceased persons; and to apprentice minors as provided by law; and the County Court or judge thereof shall have power to issue writs of injunction, mandamus and all writs necessary to the enforcement of the jurisdiction of said court, and to issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the County Court or any other court or tribunal inferior to said court. The County Court shall not have criminal jurisdiction in any county where there is a Criminal District Court, unless expressly conferred by law; and in such counties appeals from Justice's Courts and other inferior courts and tribunals in criminal cases shall be to the Criminal District Court, under such regulations as may be prescribed by law, and in all such cases an appeal shall lie from such District Court to the Court of Criminal Appeals. When the judge of the County Court is disqualified in any case pending in the County Court the parties interested may by consent appoint a proper person to try said case, or upon their failing to do so, a competent person may be appointed to try the same in the county where it is pending, in such manner as may be prescribed by law.

Section 25. The Supreme Court shall have power to make and establish rules of procedure, not inconsistent with the laws of the State, for the government of said court and the other courts of this State, to expedite the dispatch of business therein.

Section 28. Vacancies in the office of judges of the Supreme Court, the Court of Criminal Appeals, the Court of Civil Appeals and District Courts, shall be filled by the Governor until the next succeeding general election, and vacancies in the office of county judge and justices of the peace shall be filled by the Commissioners Court until the next general election for such offices.

Section 29. The foregoing constitutional amendment shall be submitted to a vote of the qualified electors of the State at an election to be held throughout the State on the second Tuesday in August, A. D. 1891, at which election all voters favoring said proposed amendment shall write or have printed on their ballots the words "For the amendment to article

5 of the Constitution, relating to the judiciary," and all those opposed shall write or have printed on their ballots the words "Against the amendment to article 5 of the Constitution, relating to the judiciary."

Section 30. The Governor of the State is hereby directed to issue the necessary proclamation for said election, and have the same published as required by the Constitution and existing laws of the State.

Approved April 28, 1891.

CONCURRENT RESOLUTION.

Be it resolved by the House of Representatives, the Senate concurring.

Section 1. That the Governor be and he is hereby requested to communicate with the superintendent of the United States census for the year 1890, and secure at the earliest moment the statistics of the population of Texas by counties, for the use of this Legislature.

Approved February 11, 1891.

CONCURRENT RESOLUTION.

Concurrent Resolution authorizing the appointment of a committee to investigate the case of Jay Gould versus the International and Great Northern Railroad Company, in the District Court of Smith county, and all the proceedings had and done in said cause, and in other causes in that and other courts of the State, affecting said railroad company and its receivers.

Whereas, Grave charges have been made in the public prints and by current reports which tend to bring in disrepute the courts of this State, touching the pending receivership of the International and Great Northern Railroad Company in the district court of Smith county, and it is due to the officers of said court and to the good name of the State that said reports and charges should be investigated, and, if false, exposed, therefore,

Section 1. Be it resolved by the House of Representatives (the Senate concurring): That a joint committee of the two houses to investigate said matters be appointed by the respective presiding officers, to consist of two senators and three representatives, whose duty it shall be to proceed immediately to investigate all matters connected with the receivership of the International and Great Northern Railroad Company, in the district court of Smith county, the origin of such receivership, the cause or causes of its duration, the operations and expenditures by the receivers, and all other suits, matters and things connected therewith or incidental thereto. Said committee may sit during the sessions of the Legislature or in vacation, and is hereby empowered to send for persons and papers, to administer oaths, and to hold their sessions at any convenient point in the State. All parties interested shall have the right to appear before the committee in person or by attorney, and shall have the right to have witnesses summoned and examined, and the investigation shall be with open doors. Upon the conclusion of their investigation, the joint committee hereby created shall report the result thereof, together with such conclusions of facts, and recommendations as to necessary legislation they may deem advisable, to their respective houses. If the Legislature be not in session, when such investigation is concluded,

the committee is directed to file said report in the office of the Secretary of State as a public record in said office, on or before the first day of August, 1891, and the same shall be printed and laid before the next session of the Legislature by the Governor. Each member of the committee shall receive for his services five dollars per day for the time he is engaged in the investigation, and railroad fare paid in going to and returning from the point at which the investigation is held, and the stenographer employed by the committee shall receive for his services not exceeding ten dollars per day for the time he is engaged in such service; all claims to be approved by the Governor, and warrants drawn by the Comptroller as in other cases.

Sec. 2. Said committee shall take down all testimony heard by them, in writing, and for this purpose they may employ some competent stenographer, and said testimony as well as all documentary evidence, shall be filed as a part of the report the committee, and be printed for the use of the members of the Legislature.

Sec. 3. This resolution shall take effect and be in force from and after its passage by the two houses.

SENATE CONCURRENT RESOLUTION.

Whereas, by concurrent resolution of the Legislature of the State of Kansas of February 11, 1891, an invitation has been extended to the West and Southwestern States and Territories, to participate by means of selected representatives in a commercial congress of the aforesaid States and Territories, to convene at Kansas City on the 15th day of April, 1891, for the purpose of discussing commercial and economic questions, involving the welfare of the West and Southwest; and,

Whereas, The community of interest existing between the several States and Territories of said sections, renders it highly important that such congress should be held, and that Texas should be represented therein; therefore,

Be it resolved by the Senate of the State of Texas, the House of Representatives concurring: That on behalf of the State of Texas, we accept such invitation, and heartily endorse the objects of such convention.

Be it further resolved, That in accordance with the terms of the concurrent resolution of the Legislature of the State of Kansas, a delegation of eleven, to consist of the President of the Senate, the Speaker of the House, and four senators to be appointed by the President of the Senate, and five Representatives by the Speaker of the House, to represent the State of Texas in said Congress, together with five other delegates to be appointed by the Governor.

Be it resolved further: That the Governor is hereby authorized and requested to select and commission five additional delegates. The actual and necessary expenses of the committee herein provided for, shall be paid out of the contingent fund of the twenty-second Legislature.

Approved April 14, 1891.

CONCURRENT RESOLUTION.

Concurrent Resolution to make more effective a concurrent resolution passed at the present session of the Legislature appointing a committee to investigate the case of Jay Gould versus the International and Great Northern Railway Company in the District Court of Smith County and all proceedings had and done in said cause and other causes in that and other courts of the State affecting said Railroad Company and its receivers; to authorize said investigating committee to appoint a sergeant at arms, prescribe his duties and provide for his compensation, to provide for the compensation of witnesses summoned by said committee and testifying before it, and to provide for the payment of other expenses incurred in said investigation.

Section 1. Be it resolved by the House of Representatives (the Senate concurring) that the joint committee appointed to investigate the case of Jay Gould versus the International and Great Northern Railway Company as provided in concurrent resolution passed at a former day of this session, be and they are hereby authorized and empowered to appoint a sergeant-at-arms whose duty it shall be to attend the meetings of said committee, to execute and return all process directed to him in summoning witnesses and bringing them before the committee, and to do and perform all such other duties as may be required of him by the committee. Said Sergeant-at-Arms shall receive as compensation for his services, the sum of five dollars per day during the time he may be so employed and shall further receive the amount of railroad fare necessarily expended while traveling in the execution of any process directed to him by the committee. The claim of said sergeant-at-arms for services, after the same shall have been approved as correct by the chairman of said committee, shall be approved and paid as provided for in section 1 of the original concurrent resolution heretofore passed.

Sec. 2. All witnesses who may be summoned by the committee, and who shall appear before it and testify, shall receive as compensation the sum of two dollars per day for the time they may be present before said committee and shall receive the actual railroad fare necessary in going to and returning from the point at which said investigation is held. The claim or claims of witnesses under this section, after the same shall have been approved as correct by the chairman of said investigation committee, shall be paid in manner and form as provided for in section 1 of the original concurrent resolution heretofore passed.

Sec. 3. Should it become necessary in the progress of the investigation [investigation] provided for, that the committee should go to any other point or points in the state, other than the point at which said investigation is held, then the said committee shall be allowed their actual necessary expenses for such service, in addition to the compensation already provided for in original concurrent resolution, to be paid in the same manner as provided for in original concurrent resolution.

Sec. 4. This resolution shall take effect and be in force from and after its passage by both houses.

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SPECIAL LAWS

OF

THE STATE OF TEXAS

PASSED AT THE

REGULAR SESSION OF THE TWENTY-SECOND LEGISLATURE

CONVENED

AT THE CITY OF AUSTIN

JANUARY 13, 1891, AND ADJOURNED APRIL 13, 1891.



AUSTIN
1891

SPECIAL LAWS OF TEXAS.

TWENTY-SECOND LEGISLATURE, 1891.

DALLAS—AMENDMENT TO CHARTER OF.

Sec.

1. Amends sections 10, 21, 28, 94, 120, 140, 158 and 161 of said charter.
- (10) Election of mayor pro tem and president of council; their term of office and duties.
- (21) Compensation of officers, when to be fixed.
- (28) Office of city judge created; qualification of city judge; term of office.
- (94) Control and regulation of steam engines.

Sec.

- (120) Power of council to make public improvements; issuance of bonds.
- (140) Assessment of property; board of appeals; term of office; duties.
- (158) Taking of private property for public use; procedure.
- (161) Management of city public schools; qualifications, election and powers of directors; vacancy, how filled.
2. Emergency clause.

CHAP. 1.—[H. B. No. 339.] An Act to amend sections 10, 21, 28, 94, 120, 140, 158 and 161, of an act entitled "An act to incorporate the City of Dallas, and to grant it a new charter," approved March 13, 1889.

Section 1. Be it enacted by the Legislature of the State of Texas, That sections 10, 21, 28, 94, 120, 140, 158 and 161 of an act entitled "An act to incorporate the City of Dallas and to grant it a new charter," approved March 13, 1889, be and the same are hereby amended so as to hereafter read as follows:

Section 10. At the first regular meeting in May every year, or as soon thereafter as practicable, the city council shall elect by ballot from the members of the council a mayor pro tem and a president of the council, who shall hold their offices for one year and until their successors are elected and qualified. The mayor pro tem, shall in absence of the mayor or in case of his inability or refusal to act, perform his duties and receive such compensation as the council may prescribe. The president of the council shall preside over all meetings of the council.

Section 21. The compensation of all officers shall be such as may be fixed by the city council. Such compensation shall be fixed not less than sixty days before each annual election, and the pay of no city officer shall be increased or diminished during his term of office and no city officer shall receive any extra pay during his term of office.

Section 28. In lieu of the office of recorder of the city of Dallas, there is hereby created the office of city judge. Said city judge shall be a resident of said city and a qualified voter therein. He shall be a person learned in the law, and a licensed attorney at law, and shall have practiced in the courts of this state at least two years. He shall be elected by the qualified voters of the city and shall hold his office for two years, and until his successor is elected and qualified. He shall preside over and hold said court and discharge all the duties thereof. This section shall in no way interfere with or change the term of office of the present city judge.

Section 94. To control and regulate the location and use of steam engines in the city and prescribe the qualifications of persons operating and running same, and to adopt such rules and regulations in relation thereto as may seem best for the public safety and comfort.

Section 120. The council shall have power to appropriate so much of

the general revenue of the city for the purpose of retiring and discharging the accrued indebtedness of the city, and for the purpose of improving the streets, constructing sewers, erecting and maintaining public buildings of every kind, water works, etc., as the council may from time to time deem expedient, and in furtherance of any and all these objects, the city shall have the right and power to borrow money upon the credit of the city and to issue coupon bonds of the city therefor, in such sum or sums as may be deemed expedient, to bear interest not to exceed 6 per cent per annum, payable semi-annually at such place or places as may be designated by the city ordinance, provided that the aggregate amount of said bonds shall at no time exceed two million five hundred thousand dollars.

Section 140. Whenever the assessor and party rendering can not agree as to the value of property, it shall be left to a board of appeals to decide the value, and such decision shall be final; said board to be composed of three disinterested freeholders elected by the council in January, or as vacancies occur, who shall hold their offices for one year, unless sooner removed by the council. A majority of the members of said board shall constitute a quorum for the transaction of business; said board shall meet to hear appeals from parties aggrieved, and to regulate and supervise the assessment rolls on the first Monday in April of every year, and shall hold their sessions until all appeals have been heard and determined, and until said assessment rolls shall have been so regulated and supervised. The assessor shall give at least five days notice of such meeting by newspaper publication. The board shall have general supervision over the assessment rolls of the city, and shall have the right to diminish or increase the valuation of any property so as to correspond with the valuation of other similar property, and shall order any error in assessment or any inequitable assessment to be changed and corrected. The members of the board shall be sworn by the Mayor or any officer qualified to administer oaths, to discharge their duties faithfully and impartially. They shall receive for their service such compensation as the city council may direct. Any one aggrieved by error of assessment may complain to the board in writing. No increase in valuation of property shall be made without notifying the owners thereof, by newspaper publication, or in such manner as the city council may provide.

Section 158. The city council shall have the power to appropriate private property for public purposes. Whenever the city council of said city shall deem it necessary to take any private property in order to open, extend, change or widen any public street, avenue or alley, or for the construction of water mains or sewers, either within or without the city limits, such property may be taken for such purposes by making just compensation to the owner thereof; if the amount of such compensation shall not be agreed upon, it shall be the duty of the city council to cause to be stated in writing the real estate or property sought to be taken, the name of the owner thereof and his residence if known, and the purpose for which such property is sought to be taken, and file such statement with the County Judge of Dallas county. Upon the filing of such statement it shall be the duty of such judge in term time or vacation, to appoint three disinterested freeholders and qualified voters of the city of Dallas, as special commissioners to assess the damages to accrue to the owner by reason of such condemnation. The commissioners so appointed shall in their proceedings be governed and controlled by the state laws in force in reference to the condemnation of the right

of way for railroad companies, and the assessment of damages therefor; the city of Dallas occupying the position of the railroad company. And all laws in reference to the application for the condemnation for right of way of railroad companies, including the measure of damages, the right of appeal and the like, shall apply to an application by the city of Dallas under this charter for condemnation of property for the aforesaid purposes. The City of Dallas to occupy the position of the railroad company. In estimating the damages to such property the jury shall not only estimate the value of the land so taken, but they shall also estimate the damage done the remainder of any land so taken by reason of changing the shape of the same.

Section 161. That the city public schools shall be under the management and control of a board of school directors composed of one member from each ward, who shall be elected at the general elections of the city, and shall hold their offices for the term of two years and serve without compensation; provided, that this section shall in no way interfere with the term of office of any of the present members of said board, except the members from such wards as may be changed or established prior to the next general election, and provided, that the members of said board who shall be elected from such ward as may be changed or established prior to said election, shall, in such manner as said board may determine, as soon after said election as practicable, divide themselves into two classes, one of which said classes shall serve for one and the other for two years, and until their successors are elected and qualified; said board shall be subject to the ordinances of the city, and shall have such power and perform such duties as the city council may from time to time by ordinance prescribe.

Any vacancy on said board shall be filled in conformity with the ordinance regulating special elections.

Sec. 2. Whereas, as the city of Dallas has no charter by which she can condemn property for the opening or widening of streets. Therefore, an imperative public necessity exists requiring the suspension of the constitutional rule, which requires bills to be read on three several days in each house, and the same is hereby suspended and this act shall take effect and be in force from and after its passage, and it [is] so enacted.

[Note.—The foregoing act originated in the House, and passed the same by two-thirds vote—ayes 84, nays 0; and passed the Senate by two-thirds vote—ayes 22, nays 0.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 25th day of February, A. D. 1891, and was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the constitution, and thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

HEIRS OF L. H. DAVIS—ACT FOR RELIEF OF.

- Sec. 1. Sale to P. E. Holmes is validated.
2. Patent ordered to issue when balance due is paid.
3. Emergency clause.

CHAP. 2.—[H. B. No. 490.] An act to validate the sale of section 82, Block H, located for the common school fund by virtue of certificate No. 1-41, issued to the Waco and North Western Railroad Company, situated in Hardeman County, made by the State Land Board to P. E. Holmes upon his application for the purchase thereof, filed the 28th day of May 1885, under the act of April 12th, 1883, providing for the sale and lease of the common school, university and asylum lands, &c. and to authorize and require the Commissioner of the General Land Office to issue patent therefor in favor of the heirs of L. H. Davis, deceased, whenever they shall pay to the State the amount of money due the common school fund for said section of land according to the terms of said sale.

Section 1. Be it enacted by the Legislature of the State of Texas: That the sale of section 82, Block H, of land located for the common school fund by virtue of certificate 1-41 issued to the Waco and Northwestern Railroad Company, situated in Hardeman County, made by the State Land Board to P. E. Holmes, upon his application for the purchase thereof, filed on the 28th day of May, 1885, under the act of April 12th, 1883, providing for the sale and lease of lands belonging to the common school, university and asylum funds be and the same is hereby validated.

Sec. 2. Whereas the said P. E. Holmes, after completing his purchase of said land by paying the amount of money therefor, as required by law, sold and conveyed the same to L. H. Davis, who together with his administrators have paid all interest due on said purchase, and all taxes assessed against said land, and whereas, said L. H. Davis died on the 10th day of February 1888, and his widow and children are residing on said land, therefore be it further enacted that the Commissioner of the General Land Office be and he is hereby authorized and required to issue patent for said land, whenever the balance due on said land according to the terms of said sales shall be paid by said heirs.

Sec. 3. Whereas, there is now pending in the District Court of Hardeman County a suit to forfeit the sale hereinafter validated, which suit is liable to be called for trial before the adjournment of the present session of the Legislature; therefore there exists an emergency and an imperative public necessity that the constitutional rule requiring all bills to be read on three several days to be suspended, and said rule is hereby suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act originated in the House and passed the same by a vote of 75 yeas and no nays; and passed the Senate by a vote of 26 yeas and no nays.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 6th day of March, A. D. 1891, but was not signed by him nor returned to the house in which it originated with his objections thereto, within the time prescribed by the constitution, and thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

M. B. IRWIN—ACT FOR RELIEF OF.

- Sec. 1. Annual pension of \$150, from January 1, 1891.
 2. Emergency clause.

CHAP. 3.—[S. B. No. 172.] An Act to provide an annual pension of One Hundred and Fifty Dollars for M. B. Irwin, a surviving soldier of the Texas Revolution.

Section 1. Be it enacted by the Legislature of the State of Texas: That there shall hereafter be paid to M. B. Irwin a surviving soldier of the Texas Revolution the sum of One Hundred and Fifty Dollars per annum during his natural life, out of any moneys in the Treasury not otherwise appropriated, to take effect from the first day of January 1891.

Sec. 2. That on account of the dependent condition of the beneficiary herein, his aged and infirm condition, there exists an emergency and public necessity, that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect from and after its passage and it is so enacted.

[Note.—The foregoing act originated in the Senate and passed the same by yeas 24, nays none; and passed the House by yeas 76, nays 1.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the ninth day of March, A. D. 1891, and was not signed by him, nor returned to the house in which it originated with his objections thereto within the time prescribed by the constitution, and thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

 SAN ELIZARIO—DEEDS OF VALIDATED.

Preamble.
 Sec.

1. Deeds to lands patented to inhabitants of San Elizario declared valid.

Sec.

2. Emergency clause; does not validate claim of any person as against the University or State of Texas.

CHAP. 4.—[H. B. No. 416.] An act to validate deeds made by the town of San Elizario while acting under the general incorporation laws.

Whereas, the State of Texas granted by patent to inhabitants of the town of San Elizario in El Paso County, a body of land, and the inhabitants of said town, for many years, ignored the special charter and organized in pursuance of the general incorporation laws, a municipal corporation, and subdivided the lands aforesaid into small parcels, and the corporation conveyed the same by deed, and said lands are now, in good faith held and owned by hundreds of persons most of whom have cultivated or improved the same; now therefore:

Section 1. Be it enacted by the Legislature of the State of Texas: That all deeds to any part of the lands patented to inhabitants of the town of San Elizario, executed under authority of said town while acting under the general incorporation laws of the State, are hereby declared valid to all intents and purposes as if the same had been executed under and in conformity with the special charter of said town.

Sec. 2. The cloud cast upon the title of the lands named in preamble and first section of this act, the necessity for speedy relief and the crowded condition of business before the Legislature, create an imperative public necessity for the suspension of the constitutional rule requiring bills to be read on three several days and such rule is hereby suspended,

and the clouds cast upon titles, the retarding of development and utilization of the lands create an emergency that this act take effect from its passage, and it is so enacted. Provided that nothing in this act shall be construed as in any way acknowledging, acquiring or validating the claims of any person as against the claim of the University of Texas, or the claim of the State of Texas to any portion of the land covered or claimed to be covered by the San Elizario grant; provided further that no suit now pending or hereafter brought by or in behalf of the University of Texas shall be affected by anything in this act contained.

[Note.—The foregoing act originated in the House, and passed the same by a vote of 76 yeas and no nays; and passed the Senate by a vote of 25 yeas and no nays.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the seventeenth day of March, A. D. 1891, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the constitution, and thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

SOCORRO—DEEDS OF VALIDATED.

Preamble.

Sec.

1. Deeds to lands patented to inhabitants of Socorro declared valid.

Sec.

2. Emergency clause; does not validate claim of any person as against the University or State of Texas.

CHAP. 5.—[H. B. No. 417.] An act to validate deeds made by the Town of Socorro while acting under the general incorporation laws.

Whereas, the State of Texas granted by patent to inhabitants of the town of Socorro in El Paso county a body of land and the inhabitants of said town for many years ignored the special charter and organized in pursuance of the general incorporation laws a municipal corporation and subdivided the lands aforesaid into small parcels, and the corporation conveyed the same by deed, and said lands are now in good faith held and owned by hundreds of persons, most of whom have cultivated or improved the same; now, therefore,

Section 1. Be it enacted by the Legislature of the State of Texas: That all deeds to any part of the lands patented to inhabitants of the town of Socorro, executed under authority of said town while acting under the general incorporation laws of the State are hereby declared valid to all intents and purposes, as if the same had been executed under and in conformity with the special charter of said town.

Sec. 2. The cloud cast upon the title of the lands named in preamble and first section of this act; the necessity for speedy relief, and the crowded condition of business before the Legislature create an imperative public necessity for the suspension of the constitutional rule requiring bills to be read on three several days, and such rule is hereby suspended, and the clouds cast upon titles, the retarding of development and utilization of the lands create an emergency that this act take effect from its passage, and it is so enacted. Provided that nothing in this act shall be construed as in anyway acknowledging, acquiring or validating the claims of any person as against the University of Texas, or the claims of the State of Texas, to any portion of the land covered or

claimed to be covered by the Socorro grant. Provided further, that no suit now pending or hereafter brought by or in behalf of the University of Texas shall be affected by anything in this act contained.

[Note.—The foregoing act originated in the House and passed the same by a vote of 73 yeas and no nays; and passed the Senate by a vote of 25 yeas and no nays.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the seventeenth day of March, A. D. 1891, but was not signed by him nor returned to the House in which it originated with his objections thereto within the time prescribed by the constitution, and thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

P. H. BELL—ACT FOR RELIEF OF.

Preamble.

Sec. 1. Annual pension of \$150, from January 1, 1891, and certificate for 1280 acres of land.

2. Emergency clause.

CHAP. 6.—[S. S. B. No. 164.] An act for the relief of Governor P. H. Bell, a veteran of the Texas Revolution.

Whereas, Governor P. H. Bell, now residing at Littleton, North Carolina, gave many years of his eventful life to the service of the Republic and State of Texas, and whereas, in his old age he is now in necessitous and indigent circumstances, and whereas, being a non-resident of the State, he was not a beneficiary under the veteran pension law of 1885 nor under the pension law of 1890 now in force, and whereas, also because of his non-residence in the State he did not obtain a veteran donation land certificate under the act of 1881; now therefore, in recognition of the services rendered and to the end that his declining years may be free from want:

Section 1. Be it enacted by the Legislature of the State of Texas: That to Governor P. H. Bell there shall be granted an annual pension of one hundred and fifty dollars, payable quarterly and to take effect from the first day of January 1891, and to be paid under the laws now in force governing the payment of veteran pensions. And to Governor P. H. Bell there is hereby granted a certificate for 1280 acres of land which may be located upon any of the heretofore reserved public lands, now reserved for the payment of the public debt.

Sec. 2. Whereas Governor P. H. Bell is old and infirm, therefore an emergency exists and an imperative public necessity demands the suspension of the constitutional rule requiring bills to be read on three several days, and the rule is suspended and that this act take effect and be in force from and after its passage and it is so enacted.

[Note.—The foregoing act originated in the Senate and passed the same by a vote of 27 yeas and no nays; and passed the House by a vote of 47 yeas and 25 nays.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the seventeenth day of March, A. D. 1891, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the constitution, and thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

CASTROVILLE—AMENDMENT TO CHARTER OF.

Sec. 1. Amends section 2, act of January 16, 1850.

(2) Defines boundary lines.

3. [2] Emergency clause.

CHAP. 7.—[H. B. No. 546.] An act to amend section 2 of an act to incorporate the town of Castroville, approved January 16th, 1850.

Section 1. Be it enacted by the Legislature of the State of Texas: That section 2 of an act to incorporate the town of Castroville, approved January 16th, 1850, be so amended as to hereafter read as follows:

Sec. 2. That the bounds and limits of said town, and within which the said corporation shall exercise lawful jurisdiction shall be as follows, to-wit: Beginning at the northeast corner of survey No. 178, on the west bank of the Medina river; thence west with the north line of said survey one and one half miles ($1\frac{1}{2}$) to a point on said line for the northwest corner; thence in a southerly direction in a straight line to a point on the south line of survey No. 179 for its southwest corner, one and one half ($1\frac{1}{2}$) miles from the southeast corner of said survey on the west bank of the Medina river; thence with the south line of said survey No. 179 one and one half ($1\frac{1}{2}$) miles to the southeast corner of said survey on west bank of said river; thence up said river as it meanders to the place of beginning.

Sec. 3. The great importance of this act to the people of Castroville, and the near approach of the close of this session creates an emergency, and a public necessity exists requiring that the constitutional rule requiring bills to be read on three several days be suspended and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act originated in the House, and passed the same by a vote of 74 yeas and no nays; and passed the Senate by a vote of 23 yeas and no nays.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the twenty-third day of March, A. D. 1891, but was not signed by him nor returned to the house in which it originated with his objections thereto, within the time prescribed by the constitution, and thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

FORT WORTH—AMENDMENT TO CHARTER OF.

Sec.

1. Amends sections 6, 7, 26, 27, 28, 29, 30, 31, 34, 35, 36, 37, 47, 53, 56, 57, 58, 64, 76, 78, 82, and 82a, 85, 86, 87, 88, 95, 102, 109, 115, 143, and 159.
 - (6) Officers—how chosen.
 - (7) City judge—election of, etc.
 - (26) City court—jurisdiction of.
 - (27) Same.
 - (28) Same—process, practice and procedure.
 - (29) Powers of city judge.
 - (30) Salary of city judge.
 - (31) Appeals from city court.
 - (34) Powers and duties of treasurer, etc.
 - (35) Powers and duties of assessor and collector.
 - (36) Powers and duties of city engineer.
 - (37) Powers and duties of city attorney.
 - (47) Control of streets, alleys, etc.
 - (57) Sale of liquors.
 - (58) Butchers—regulation of.
 - (64) Punishment of vagrants, etc.
 - (76) May compel convicts to work on streets.
 - (78) Disorderly houses.
 - (82) May regulate wires, poles, etc.
 - (82a) Location of freight and passenger depots.

Sec.

- (85) Power to pass ordinances, etc., and other powers.
- (86) Power to provide for trials, fees, etc.
- (87) Power over finances of the city.
- (88) City bonds shall specify what.
- (95) Occupation taxes and licenses.
- (102) Laws to govern assessments and collections.
- (109) Term of office of school trustee.
- (115) Control of erection, etc., of wooden buildings.
- (143) Proceedings when peace bond is forfeited.
2. Adds sections 28a, 30a, 34a, 53a, 79a, 87a, 87b, 87c, 159a, 159b, 159c.
 - (28a) City judge.
 - (30a) Jurors in city court.
 - (53a) Taxes on hackmen, etc.
 - (53b) Sprinkling streets.
 - (79a) Removal of weeds, etc., from private premises.
 - (87a) Water works bonds.
 - (87b) May issue negotiable paper.
 - (87c) May issue bonds to retire outstanding bonds.
 - (159c) City property not liable to execution; city funds not liable to garnishment.
3. Repealing clause.
4. Emergency clause.

CHAP. 8.—[H. B. No. 326.] An act to amend sections 6, 7, 26, 27, 28, 29, 30, 31, 34, 35, 36, 37, 47, 56, 57, 58, 64, 76, 78, 82 and 82a, 85, 86, 87, 88, 95, 102, 109, 115, 143, and 159, of an act entitled an act to incorporate the City of Fort Worth and to grant a charter to said city, approved March 20, 1889; and by adding thereto sections 28a, 30a, 34a, 53a, 53b, 79a, 87a, 87b, 87c, 159a, 159b, 159c.

Section 1. Be it enacted by the Legislature of the State of Texas: That sections 6, 7, 26, 27, 28, 29, 30, 31, 34, 35, 36, 37, 47, 53, 56, 57, 58, 64, 76, 78, 82 and 82a, 85, 86, 87, 88, 95, 102, 109, 115, 143 and 159 of said charter shall hereafter read as follows:

Section 6. Officers—how chosen. The Mayor, Aldermen and all of the officers mentioned in the last preceding section, except the City Judge and City Engineer, shall be elected by the qualified voters of said city as hereinafter provided, and shall hold their respective offices for two years and until the election and qualification of their successors.

Section 7. The city council shall at their first regular meeting in April after the annual election in the year 1891 and every two years thereafter, elect a City Judge and City Engineer who shall hold their office for two years, and until their successors are elected and qualified; should said city council fail to elect said City Judge and City Engineer at their first regular meeting in April then they shall do so at their next regular meeting.

Section 26. City Court—Jurisdiction of. The judicial power of the city of Fort Worth shall be and the same is hereby vested in a Court to be known as the Fort Worth City Court, to be presided over by a judge to be known as city judge, which court is hereby created and established with a criminal jurisdiction as follows: First, to try and punish all misdemeanors over which the recorder's court of Fort Worth now has jurisdiction. Second, to try, determine and punish all misdemeanors arising under the provisions of this charter, to have concurrent jurisdiction with the State courts over all misdemeanors against the laws of the State, committed within the City limits, except theft, swindling, aggravated assault, aggravated assault and battery, keepers or exhibitors of such games as are prohibited by law, and matters involving official misconduct; and to have exclusive jurisdiction over, and violation of the

Sunday laws between the hours of 12 o'clock Saturday night and 9 o'clock Sunday morning and between the hours of 4 o'clock p. m. Sunday and 12 o'clock Sunday night.

Section 27. Said Court shall always be deemed open for trial of said causes, and proceedings before said court shall be commenced by filing a written complaint, specifying the charge made against the accused, with reasonable certainty, which complaint shall be sworn to, and shall not be quashed for any formal defects if it substantially sets forth the nature of the violation alleged. Said court shall have no civil jurisdiction, except the forfeiture and collection of bonds in said city court.

Section 28. All process of said court shall run in the name and by the authority of the City of Fort Worth and shall conclude against the peace and dignity of the city, and shall be served and executed in the same manner as like process issued from a state court unless herein otherwise provided. The practice and procedure of state court so far as applicable and practicable, shall govern in said city court, unless otherwise provided herein, or by ordinance of the city council. The style of process shall be, "The City of Fort Worth."

Section 29. Powers of City Judge. The city judge shall have full power and authority to enforce all process of said city court. He shall have full power to issue subpoenas for witnesses and to compel their attendance by process of attachment. He may punish all contempts of his court by fine and imprisonment or either. He may issue subpoenas, writs of *capias*, warrants of arrest, search warrants, execution and all other process known to the law, which state courts in such case may issue. He may require of any person arrested, a bond for his or her good behavior, and to keep the peace or for his or her appearance before said court, with two good and sufficient sureties, which bond, as well as all other bonds taken in any proceedings in said court, shall be payable to the City of Fort Worth. He shall have full power to administer official oaths and affirmations and give certificates therefor. The city council may determine what costs if any shall be charged for proceedings in and for all process issued by said court. The city judge shall perform all the duties herein required, and such other duties as may be prescribed by ordinance, not inconsistent with the constitution of this State. All fines and costs imposed by said court shall be paid into the city treasury for the use of the city. The city council may if they deem it necessary, provide said court with a clerk and seal. In cases of temporary failure to act for any cause, on the part of the City Judge, the Mayor is hereby authorized to appoint some person qualified, who shall discharge the duties of said office and receive the pro rata compensation due therefor. The provisions herein referring to said city judge shall not be construed to interfere with the term of the present City Recorder until the time for which he was elected has expired.

Section 30. City Judge's salary. The city judge shall receive a salary of eighteen hundred dollars per year for his first term of office under this act, and thereafter shall receive a salary not exceeding eighteen hundred dollars per year, to be fixed by the city council as hereinafter provided, payable in monthly installments.

Section 31. No appeal shall lie from this court unless the fine imposed is twenty dollars or more, and then only to the Court of Appeals. Said appeals shall be governed by the rules of practice and procedure for appeals from the county court to said Court of Appeals so far as the same may be practicable.

Section 34. Powers and duties of Treasurer, etc. The Treasurer of said city shall receive and securely keep all moneys belonging to the city and make all payments for the same upon the order of the Mayor attested by the Secretary, under the seal of the city; Provided, that no order shall be paid unless it shall show on its face that the city council has directed its issuance and for what purpose. He shall render a full and correct statement of his receipts and payments to the council at their first regular meeting in every quarter, and whenever, at all other times, he is required by them to do so. At the end of ever[y] half year, he shall cause to be published at the expense of the city, a report showing the amount of receipts and expenditures for six months next preceding and the general condition of the treasury, and he shall do and perform such other acts and duties as the city council may require, and for his services, he shall receive such salary as the council shall fix as hereinafter provided, not to exceed two thousand dollars per annum, payable monthly. He shall execute a bond, payable to the city in such amount and in such form as may be required by the council and with sufficient security, to be approved by the council, and conditioned for the faithful discharge of his duties in accordance with the charter and ordinance of the city. He shall also execute another bond, payable to the city in such amount and in such form as may be required by the council, and conditioned for the faithful discharge of his duties by reason of all school funds of any source coming into his hands.

Section 35. Powers and Duties of Assessor and Collector, etc. The Assessor and Collector shall make up the assessment of all property taxed by the city and make duplicate rolls thereof, and on completion of the rolls he shall deliver one of them to the City Secretary. He shall collect all taxes due the city, and in the event of non-payment of any taxes he shall proceed to sell property to raise the amount of taxes so due, and shall, in the performance of his duties, observe the provisions of this act and the ordinance of the city relating thereto. He shall give bond payable to said city in such amount and in such form as the council may require with good and sufficient sureties conditioned for the faithful performance of his duties in accordance with the charter and ordinances of the city, the same to be approved by the council. The council may require of him a new bond whenever they deem the existing bond, for any reason, insufficient, and whenever such bond shall be required he shall perform no official act until the same is given and approved. He shall, at the expiration of every week, pay to the treasurer all money collected by him by virtue of his office, and he shall at the first meeting in every month report to the council the money so collected and paid. He shall perform such other duties and in such manner and according to such rules and regulations as the council may prescribe. He is authorized to require the owners of property subject to taxation to render a correct statement thereof under oath to be administered by him or one of his deputies. He is empowered to appoint one or more deputies, subject to confirmation by the city council, whose salaries shall be paid by the city. He shall receive a salary of not more than two thousand dollars per annum to be fixed by the council as hereinafter provided, payable in monthly installments.

Section 36. Powers and duties of City Engineer. The City Engineer shall possess such powers and perform such duties as the city council may prescribe, and he shall receive a salary of not more than two thousand dollars per annum, to be fixed by the council as hereinafter provided, payable in monthly installments. He shall execute a bond payable to the

city in such amount as the council may prescribe, with sufficient security to be approved by the council and conditioned for the faithful discharge of his duties in accordance with the charter and ordinances of the city.

Section 37. Powers and Duties of City Attorney. The City Attorney shall represent the city of Fort Worth in all cases now pending or hereafter to be brought in any court in favor of or against said city. He shall attend all meetings of the city council, and give his advice and counsel when called upon to do so. He shall aid when requested in drawing and digesting all ordinances, resolutions, regulations, charters and amended charters, and he shall render such other professional services as the council may require. He shall have the power to administer oaths in any manner pertaining to the duties of his office. He may appoint a deputy, subject to confirmation by the council, to be paid by the city, to represent him in the city court. He shall receive a salary of not more than twenty-five hundred dollars per annum to be fixed by the council as hereinafter provided, payable in monthly installments. The council may, when it deems it necessary, employ counsel to assist the City Attorney in any matter or suit affecting the city and pay him such compensation as may be agreed upon. The City Attorney shall give such bond as the city council may require.

Section 47. Control of streets and alleys, etc. To have the exclusive control and power over streets, alleys, public grounds and highways within the city, and to summarily abate and remove encroachments or obstructions thereof; to open, vacate, alter, widen, extend, establish, regulate, grade, clean or otherwise improve such streets, alleys, highways and public grounds; to put drains or sewers therein and to prevent the encumbering thereof in any manner and to protect same from any encroachment or injury, and to regulate and alter the grade of premises, and to require the filling up and raising of same; and said city council shall also have power to alter or vacate the alley in any block of ground within the city upon the written application of the owner of the block, or if there be more than one owner of such block, then upon the written application of all the owners thereof uniting in such application, and such alley so vacated shall thereupon revert to and become the property of the owner of the block of which it was a part, or if more than one, then the owners of the adjoining lots therein, each extending to the center of the alley so vacated.

Section 57. May prevent the sale of liquors in certain places. The city council shall have the power to regulate and prevent the sale, bartering or giving away of any intoxicating liquors in any house or place where any theatrical or dramatic representations are given; regulate and prevent the same from being brought in or to such places under any pretext whatever. All rooms or buildings or apartments of any kind inside the rooms where such representations are given, or being a part of it, or joining or connected therewith by any door or doors, dumb waiter or opening of any kind, shall be held to be within the places inhibited by this section.

Section 58. May regulate Butchers, etc. To license, tax and make such rules and regulations in relation to butchers as they may deem necessary and proper.

Section 64. May punish vagrants, etc. To restrain and punish vagrants, mendicants, street beggars and prostitutes.

Section 76. May compel convicts to labor on the streets, etc. To compel and force all offenders against any ordinance of the city, found guilty by the city judge and sentenced to fine, who shall fail or refuse to pay such

fine and all costs and penalties, to labor on the streets or alleys of the city or any public work, under such rules and regulations as may be by ordinance established.

Section 78. May prevent and punish the keeping of disorderly houses. To prevent and punish the keeping of houses where indecent, lewd and immodest theatrical representations are given, houses of prostitution within the city, and to adopt summary measures for the removal or suppression of all such establishments.

Section 82. May regulate wires, poles, etc. The city council shall [have] the power to cause telegraph, telephone and electric light and electric power companies to change the location of their poles, and also to cause all erected poles not in use to be taken down and removed. If such companies shall fail to do such things after being notified, the city may have the same done at the expense of such companies.

Section 82a. The city council of the City of Fort Worth shall have the power, authority and control to regulate the location of freight and passenger depots in the City of Fort Worth, and shall have power, authority and control to cause the construction and repairs of approaches to the depots, and also have power and authority to cause the placing of signal and watchmen at railroad crossings within the corporate limits of the City of Fort Worth, and to regulate the speed of trains within said city.

Section 85. Power to pass, etc., ordinances, etc., and other powers. The city council shall have power to pass, publish, amend or repeal all ordinances, rules, and police regulations not contrary to the constitution of this State, for the good government, peace and order of the city and the trade and commerce thereof that may be necessary or proper to carry into effect the powers vested by this charter, in the corporation, the city government or any department or office thereof; to enforce the observance of all such rules, ordinances and police regulations, and to punish violations thereof by fines, penalties and costs; but no fine or penalty shall exceed five hundred dollars; and for any fine, penalty and costs imposed by the city judge in the trial of any cause or complaint before him, execution may issue to collect such fine, penalty and costs, to be levied and executed in the same manner that executions are from the district or county court. The same shall be issued by the city judge to the marshal, who, in levying on the property and selling, shall have like power and authority as the sheriff in executions issued from the district or county court, and the laws of the State, so far as applicable, shall apply to and be in full force and effect as to the executions issued from the city court; and any person upon whom any fine or penalty is imposed may be committed until the payment of the same with costs, and in default thereof may be imprisoned in the city prison or work-house or house of correction or may be required to work on the streets or other public work of the city for such time and in such manner as may be provided by ordinance or by law.

Section 86. Power to provide for trials fees, etc. The city council shall have power to provide by ordinance for the payment by all persons convicted of violations of ordinances before the city judge of a trial fee not exceeding ten dollars in addition to or exclusive of the costs above allowed, to be fixed by the council in proceedings before the city judge, the same to be paid into the city treasury for the use and benefit of the city.

Section 87. Power over the finances of the city. To appropriate so much of the revenue of the city emanating from whatever source, for the

purpose of retiring and discharging the accrued indebtedness of the city, and for the purpose of improving the public markets and streets, erecting and conducting the city hospitals, city hall, school houses, waterworks, sewers and other public improvements, as they may from time to time deem expedient; and in furtherance of these purposes, they shall have the power to borrow money upon the credit of the city and issue coupon bonds of the city therefor in such sum or sums as they may deem expedient, to bear interest not exceeding six per cent per annum, payable semi-annually at such place as may be fixed by ordinance; provided, that the aggregate amount of bonds issued by the city council shall at no time exceed six per cent of the value of the property within said city subject to ad valorem tax; provided further, that in determining whether at any time the amounts of bonds issued by the city is in excess of said limit of six per cent of the value of the property within said city subject to ad valorem tax the debt created by the assumption heretofore by said city of the payment of bonds issued by the Fort Worth Water Works Company and the bonds provided for in section 87a of this charter, and the negotiable promissory notes provided for in section 87b of this charter, shall not be considered or construed to be any part of the bonded indebtedness of said city; but said city shall have the right to issue bonds up to said limit of six per cent, regardless of said waterworks debt and waterworks bonds and said negotiable promissory notes.

Section 88. City bonds shall specify what, etc. All bonds shall specify for what purpose they were issued and shall not be invalid if sold for less than their par value, and when any bonds are issued by the city, a fund shall be provided to pay the interest and create a sinking fund to redeem the bonds, which fund shall not be diverted, nor drawn upon for any other purpose, and the City Treasurer shall honor no drafts on said fund except to pay interest upon or redeem said bonds, for which it was provided. The city council shall have power to invest the sinking fund in United States bonds, Texas county bonds or bonds of the City of Fort Worth.

Section 95. Occupation taxes and licenses. The city council shall have the right to assess and collect occupation taxes, commonly known as licenses, upon all trades, professions, callings, occupations or other business carried on in said city on which a license or occupation tax is levied by the State and for the same period during which such State tax is levied; provided that the license tax so levied and collected shall not exceed one-half of the license tax levied by the State for the same trades, professions, occupations or other business unless the city council is specially authorized to tax or license such trades, professions, callings, occupations or other business by this charter; and provided further, that no person engaged in mechanical or agricultural pursuits shall ever be required by the city to pay an occupation tax. The license tax shall be collected by the Assessor and Collector, and shall be paid to that officer by each and every person chargeable therewith before engaging upon any trade, profession, calling, occupation or business; and the city council shall provide suitable penalties for violations or evasions of this section; provided, that the city may collect such tax by suit in any court having jurisdiction of the amount. Any person pursuing more than one trade, profession, occupation, calling or business shall pay a license on each, and no license shall extend to more than one establishment or include more than one trade, profession, occupation, calling or business.

Section 102. Laws to govern assessments and collections. The gen-

eral laws of the State of Texas in force at the time relating to the assessments and collections of cities and town taxes, as provided by chapter 5 and 6, title 17, Revised Statutes of Texas, shall govern in assessment and collection of city taxes of said city so far as applicable, except where otherwise herein prescribed. Provided, that said city shall have the power at any time by ordinance to prescribe full rules and regulations on the subject.

Section 109. Term of Office of Trustee. A school trustee shall serve without compensation and shall hold office for the term of three years and until his successor is elected and qualified, and an appointment to fill a vacancy shall be for the unexpired term only. The terms of two of the trustees appointed hereunder shall expire on the first day of May, 1891, after their appointment, and two on the first day of May of each succeeding year.

Section 115. May regulate and control the erection, etc., of wooden buildings. The city council, for the purposes of guarding against the calamities of fire, may prohibit the erection, building, placing, moving or repairing of wooden buildings within such limits within said city as they may designate and prescribe, and may, within such limits, prohibit the moving or putting up of wooden buildings from without said limits, and may also prohibit the removal of any wooden building from one place to another within said limits, and may direct, require and prescribe that all buildings within the limits so designated and prescribed as aforesaid shall be made or constructed of fire proof materials, and to prohibit the rebuilding or repairing of wooden buildings within the fire limits when the same shall have been damaged by fire, wind, water, long usage or any manner whatsoever to the extent of fifty per cent of the value thereof, and may prescribe the manner of ascertaining such damages; may declare all dilapidated buildings to be nuisances and direct the same to be repaired, removed or abated in such manner as they shall prescribe and direct; to declare all wooden buildings in the fire limits which they deem dangerous to contiguous buildings or in causing or promoting fire to be a nuisance and require and cause the same to be removed in such manner as they shall prescribe.

Section 143. Proceedings when Peace Bond is forfeited. Whenever any person has been required by the city judge to give a peace bond, or bond for good behavior, or any similar bond under this act, and has complied with such requirements and has violated the conditions of said bond, and the fact is made to appear to the city judge, after due notice to the accused and opportunity to be heard, the offender shall be fined not exceeding the sum of two hundred dollars, and the city may sue in any court having jurisdiction, for the recovery of the penalty of said bond. Affidavits must be made charging a violation of the conditions of the bond before the city judge shall proceed to investigate the matter.

Sec. 2. That the charter of the City of Fort Worth be and the same is hereby amended by adding thereto sections 28a, 30a, 34a, 53a, 79a, 87a, 87b, 87c, 159a, 159b and 159c.

Section 28a. City Judge. In lieu of the present office of Recorder of the City of Fort Worth, there is hereby created the office of City Judge, which shall be filled by some suitable person to be elected by the city council, as hereinbefore provided. Such officer, when elected shall be known as City Judge, and shall preside over and hold said court, and discharge all the duties thereof. He shall hold his office for the term of two years, and until his successor is elected and qualified. He shall be

resident of said city, and a qualified voter therein. He shall be a person learned in the law.

Section 30a. All jurors in said city court shall be residents of said city, and otherwise possessed of the same qualifications as jurors in the state courts. They shall be summoned and selected in such manner as the city council may provide by ordinance.

Section 53a. Taxes on Hackmen, etc. To license, tax and regulate hackmen, draymen, omnibus drivers, baggage wagon drivers, and drivers of vehicles of every kind, and all others pursuing like occupations with or without vehicles, and prescribe their compensation, and make it a misdemeanor for any person to attempt to defraud them of any legal charge for services rendered; and to regulate stands for vehicles, and regulate, license and restrain runners for railroads, vehicles of any kind, hotels, public houses of any kind, or other business of any kind.

Section 53b. Sprinkling Streets. The city council shall have power to provide for sprinkling any and all streets of the city and the further power to assess a special tax on the property fronting on said streets to cover the entire expense of such sprinkling; provided, that no such tax shall be assessed unless by a two-thirds vote of the entire city council; provided, further, that the assessment and collection of such special tax shall be regulated as far as practicable by the rules in relation to street improvements as provided elsewhere in this charter.

Section 79a. May require owners of private premises to remove weeds, etc., To require the owner of any private premises in said city to cut and remove all weeds from such premises.

Section 87a. Water Works Bonds. The city council shall have the power to issue bonds to be known as the Fort Worth Water Works bonds, to the extent of one million dollars, including the bonds heretofore issued by the Fort Worth Water Works Company, the payment of which has heretofore been assumed by the city, and the one hundred thousand dollars of bonds heretofore issued by the city for water works purposes, and to provide for the payment of the interest and sinking funds of the bonds to be hereafter issued under the provisions of this section, by pledging the credit of the city, and the income and property of the water works plant and the electric light plant now owned by the city; provided, that the bonds mentioned in this section shall not be construed or considered in determining whether at any time the amount of bonds issued by the city is in excess of the limit of six per cent of the value of the property within the city subject to ad valorem tax, as provided by section 87 of this charter. Any moneys realized from the sale of bonds under this section shall be appropriated and used only for the improvement and extension of the water works plant and electric light plant owned by the city, and the retirement or taking up of any of the water works bonds mentioned in this section.

Section 87b. May issue negotiable paper. The city may by a vote of not less than two-thirds of all aldermen elected, authorize the issuance of the city's negotiable promissory notes for any of the purposes named in the first clause of this section, where the same may be needed for current expenses in any sum or sums the council may direct, to be signed by the mayor and city secretary and attested by the city seal, bearing interest at any rate not to exceed eight per cent per annum, payable at any time not exceeding five years from and after their date; but the amount of such notes so issued and outstanding shall not at any time exceed the amount of one hundred thousand dollars.

Section 87c. The city council shall have the power at any time to issue bonds for the purpose of paying off and retiring outstanding bonds against the city, and such bonds issued for this purpose shall not be construed or considered in determining whether at any time the amount of bonds issued by the city is in excess of the limit of six per cent of the value of the property within the city subject to ad valorem tax, as provided by section 87 of this charter. Such bonds shall state upon their face the purpose for which they are issued, and the moneys realized from their sale shall be used only for the purpose of paying off and retiring other bonds of the city.

Section 159c. The property, real and personal, belonging to the city, shall not be liable to be sold or appropriated under any writ of execution or cost bill, nor shall the funds belonging to said city in the hands of any person be liable to garnishment on account of any debt it may owe, or funds it may have on hand due any person, nor shall the city or any of its officers or agents be required to answer to any writ of garnishment or any account whatsoever.

Sec. 3. That all laws in conflict with the provisions of this act, be and the same are hereby repealed.

Sec. 4. Whereas, it is of great importance that the city of Fort Worth shall have the power to secure better government of said city, an emergency exists requiring the constitutional rule requiring bills to be read on three several days be suspended, and that this bill be placed upon its third reading and final passage, therefore, an emergency and a great public necessity exists that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act originated in the House and passed the same by a vote of 71 yeas and 2 nays; and passed the Senate by a vote of 21 yeas and no nays.]

Approved April 3. 1891.

COLLIN COUNTY ROADS.

Sec.

1. County commissioners ex-officio road commissioners; their duties; bond.
2. Commissioners court to adopt system for working roads; to purchase teams, tools, etc.; contract work; bond of contractor; separate account to be kept by treasurer.
3. Labor of county convicts; their wages; officers' and witnesses' fees; commutation of time of convicts; care of convicts.
4. Road overseer to be furnished teams, etc.

Sec.

5. County commissioner to direct manner of work in his district.
6. Overseer to call out hands; duty of hands; compensation of overseer.
7. Exemption from road duty; treasurer to keep separate account for each road district; county commissioners to be furnished list of persons exempt.
8. Manner of condemning lands.
9. Salary of commissioners and approval of their accounts.
10. This act cumulative of general laws.
11. Emergency clause.

CHAP. 9.—[S. B. No. 371.] An Act to create a more efficient road system for the county of Collin, in the State of Texas, and making county commissioners ex-officio road commissioners and prescribing their duties as such, and providing for their compensation as Road Commissioners, and defining the powers and duties of the Commissioners Court of said county.

Section 1. Be it enacted by the Legislature of the State of Texas: That each member of the commissioners court of Collin county shall be ex-officio road commissioner of their respective districts and under the direction of the commissioners court, shall have charge of all the teams, tools and machinery belonging to the county, and placed in their hands

by said courts; and it shall be their duty, under such rules and regulations as the commissioners court may prescribe, to superintend the laying out of new roads, the making or changing of roads, and the building of bridges. Each of said Commissioners shall, before entering upon the duties of their office, execute a bond of one thousand dollars with two or more good and sufficient sureties, payable to the county judge of said county for the use and benefit of the road and bridge fund, conditioned that they will perform all the duties required of them by law or by the commissioners court, and that they will account for all money or property belonging to the county that may come into their possession.

Sec. 2. The commissioners court of said county shall have full power and authority, and it shall be their duty to adopt such system for working, laying out, draining and repairing the public roads in said county as they may deem best, and from time to time said court may change its plans or system of working. Said commissioners court shall have power to purchase such teams, tools and machinery as may be necessary for the working of its roads. Said court shall have power to construct, grade, gravel, or otherwise improve any road or bridge by contract; in such case, said court or the County Judge may advertise in such manner as said court may determine for bids to do such work, and the contract shall be awarded to the lowest responsible bidder, who shall enter into bond payable to the County Judge of said county, for the use of the road and bridge fund, with good and sufficient sureties to be approved by said court, and in such sum as said court may determine, for the faithful compliance with the terms of said contract; but said court shall have the right to reject any and all bids. At the time of making any such contract, the court shall direct the county Treasurer to pass the amount to a particular fund for that purpose, and the Treasurer shall keep a separate account of such fund and the same shall not be used for any other purpose, and can only be paid out on the order of said court, and the said court shall have authority to employ any hands or teams to work on the roads under such regulations and for such price as they may deem best.

Sec. 3. The commissioners court of said county shall require all county convicts not otherwise employed to labor upon the public roads under such regulations as it may prescribe, and each convict so worked shall receive a credit of fifty cents on his fine first, and then on the cost, for each day he may labor. The commissioners court may at a regular term allow to the officers and witnesses such amount of their cost for the arrest and conviction of said convicts as it may deem best; provided that it shall not allow to any officer an amount greater than the following: County Judge, \$3.00; County Attorney, \$5.00, including commissions; County Clerks and Justices of the Peace, \$1.70; Sheriffs or Constables, \$2.00; which amount shall be paid to the officers out of the road and bridge fund, on the warrant of the County Judge, when said fine and costs shall have been worked out as provided in this section; provided, that this shall not be so construed as to relieve any convict from the payment of all cost for which he would be liable under the general laws of this State. The commissioners court may grant a reasonable commutation of time for which a convict is committed as a reward for faithful services and good behavior. Provided, that such commutation shall in no case exceed one-tenth of the whole time. The commissioners court may provide the necessary houses, prisons, clothing, bedding, food,

medicine, medical attention and guards for the safe and humane keeping of the convicts.

Sec. 4. Each county commissioner shall have control of all road overseers in his district and shall deliver to each of them all teams, tools and machinery necessary in working the roads in the district of said overseer, so far as he has been supplied therewith by the commissioners court, taking the receipt of said road overseer therefor, specifying each item and giving its value, which receipt shall be a full answer of the liability of the Commissioner and shall fix the liability of the overseer; and any commissioner or overseer who shall have been entrusted with any teams, tools or machinery, belonging to said county, shall be liable for any damages that may occur to the same while in his possession. It shall be the duty of the road overseer when he has finished the work on his road to return to said Commissioner all teams, tools and machinery received from him and to take up the receipt given therefor.

Sec. 5. It shall be the duty of the county Commissioner when acting as road Commissioner to inform himself of the condition of the public roads in his district, and shall determine what character of work shall be done upon said roads, and shall direct the manner of grading, draining or otherwise improving the same, which directions shall be observed and obeyed by all road overseers of his district.

Sec. 6. The commissioner may require each road overseer in his district to call out the hands in such numbers as may be sufficient to perform the work, but no road hand shall be required to work exceeding five days in any one year, unless the term of service as prescribed by the general laws shall be extended beyond that time, and provided that all the road hands in a particular district shall, as far as practicable, be worked a uniform time. Each road overseer shall have full control of all road hands within his road district, and he shall see that each hand, when called out, shall perform a good day's work, and if any hand when so called out shall fail or refuse to perform a good days work or to work in the manner the overseer may direct, he shall be liable to the same penalty as if he had failed to appear in obedience to the summons. The commissioners court may allow to any overseer who shall be engaged in the discharge of the duties of his office for more than five days during any one year, a compensation not to exceed one dollar and one-half per day for the time so served.

Sec. 7. Any citizen of Collin county liable for road duty who shall on or before the first day of January of any year pay to the county treasurer the sum of \$3.00 shall be exempt from road duty for such year, beginning on the first day of January. The treasurer shall receive and receipt for all money so paid him and place the same to the credit of the road and bridge fund, and he shall keep a separate account for each road district, of all money so received by him, and the same shall be expended in the district from which it was received. The treasurer shall, on the third day of January, or as soon thereafter as practicable, furnish to each county commissioner, a list of all persons in their respective districts that have paid said sum as provided in this section.

Sec. 8. Whenever it shall be necessary to occupy any lands for the purpose of opening, widening, straightening or draining any road or part thereof, if the owner of such land and the county commissioners court can not agree upon the damage to be paid, the county may proceed to condemn the same in the same manner that a railroad company can condemn land for right of way and the same proceedings may be had and

the same rights shall exist to each party as would exist if the proceedings were by a railroad company, except that the county shall in no case be required to give bond.

Sec. 9. Each county commissioner when acting as road commissioner and performing the duties imposed upon him by law or by the commissioners court shall be entitled to two dollars per day for the services actually performed; provided that he shall not receive more than forty-five dollars (\$45.00) per quarter when the road and bridge tax has not been levied as provided by law under the amendment of 1889, as adopted in 1890 to the Constitution of the State of Texas. And when said tax shall have been levied, he may receive an amount not to exceed ninety (\$90.00) dollars per quarter, which amount shall be paid out of the road and bridge fund when the account shall have been approved by the commissioners court, and the court shall not approve said accounts unless the commissioner presenting it shall first sign an oath that the account is just, due and unpaid, and specifying the number of days work actually performed by him, and that it was necessary to be done, and no commissioner shall be entitled to pay as road commissioner while he is performing the duties of county commissioner.

Sec. 10. This act shall be taken notice of by all courts in the same manner as the general law of the State, and it shall be construed to be cumulative of all general laws of the State on the subject of roads and bridges where not in conflict therewith, but in case of a conflict this act shall control as to the said county of Collin.

Sec. 11. The fact that there is now no sufficient road law in force in this State creates an emergency and imperative public necessity, that the constitutional rule requiring bills to be read on three several days be suspended, and said rule is hereby suspended, and it is so enacted.

Approved April 4, 1891.

ROADS—GRAYSON, DALLAS, GALVESTON, BROWN, COMANCHE, MILLS, FANNIN, TRAVIS, HUNT, HILL, KAUFMAN AND FAYETTE COUNTIES.

Sec.

1. Commissioners court may employ road commissioner and fix his salary; subject to removal at any time; bond.
2. Commissioner to control teams, etc., and give receipt for same; certified copy of receipt as evidence; responsibility of sureties.
3. To control road overseers, and to deliver teams, tools, etc., and take receipt therefor; return of teams, etc.
4. Commissioner is bailee of teams, etc.; his liability.
5. Commissioner to determine character of work, establish grades, and direct manner of draining.
6. Calling out hands; term of work; penalty for refusing to work; compensation of overseer.

Sec.

7. Commissioners court to determine system of work; shall purchase teams, wagons, etc.; work of convicts; commissioners court may employ labor.
8. Farm hedges to be kept trimmed; penalty.
9. Contracts for supplies and materials; county commissioners to make rules for government of road commissioner, etc.; reports of road commissioner.
10. Manner of condemning land.
11. This act to be cumulative of general laws; term "road," "work and working" defined.
12. Commissioners court may exercise all authority herein granted, or may employ road commissioner.
13. Emergency clause.

CHAP. 10.—[H. B. No. 526.] An Act to be entitled an act to create a more efficient road system for the counties of Grayson, Dallas, Galveston, Brown, Comanche, Mills, Fannin, Travis, Hunt, Hill, Kaufman and Fayette in the State of Texas, authorizing the employment of a road commissioner, defining his duties, prescribing penalties for his failure to perform his duties, and further defining the powers and duties of the Commissioners courts of the said counties under this act.

Section 1. Be it enacted by the Legislature of the State of Texas: That the commissioners courts of Grayson, Dallas, Galveston, Brown,

Comanche, Mills, Fannin, Travis, Hunt, Hill, Kaufman and Fayette counties, if they deem it advisable so to do, may each employ one road commissioner for the county, who shall be a resident citizen of said county, and shall receive such compensation as may be fixed by said commissioners court, not to exceed one hundred dollars per month, to be paid out of the road and bridge fund of said county. Said road commissioner shall be subject to removal at any time by the said commissioners court. He shall, before entering upon the discharge of his duties, enter into a bond with two or more good and sufficient sureties, in the sum of \$2000, payable to the County Judge of the county and his successor in office, conditioned that such road commissioner will faithfully discharge the duties of his employment as such commissioner, which bond shall be approved by the County Judge and acknowledged by the said Commissioner and the sureties as required for the acknowledgment of deeds, and recorded as required for the bonds of county officers.

Sec. 2. Subject to the orders and control of the Commissioners court, the road Commissioner shall have charge and control of all such teams, wagons, tools and machinery as the Commissioners court shall place in his custody for use on the public roads of said county and shall execute and deliver to the County Clerk of said county his receipt therefor, specifying each item and its value, which shall be filed by the Clerk of the county court in his office, and a certified copy thereof shall be admissible as evidence in any suit against said Commissioner and his sureties or either of them, on his bond for the said property or the value thereof, the same as the original would be. Said road Commissioner and his sureties shall be responsible on his bond for all such property thus turned over to him until he shall account therefor.

Sec. 3. The road Commissioner shall have control of all road overseers in the county, and shall deliver to each all teams, tools, wagons and machinery necessary in working the roads in the district of such overseers, so far as he has been supplied therewith by the commissioners court, taking the receipt of said road overseer therefor, specifying each item and giving its value, which receipt shall be a full answer to the liability of the road commissioner for all such teams, wagons, tools and machinery. It shall be the duty of the road overseer, when he has finished the work on his road, to return to said road Commissioner all teams, wagons, tools and machinery received from him and to take up the receipt given for the same.

Sec. 4. Each road Commissioner and overseer shall, as to all teams, wagons, tools and machinery delivered to him by the Commissioners court or the road commissioner, be deemed and held to be the bailee of the county, and shall be responsible to the county for the value thereof until accounted for by him. It shall be sufficient to exempt the road Commissioner or any road overseer from liability for any property received by him as herein provided to show that he has delivered the same to any person authorized by law or by the orders of the Commissioners court of the county to receive the same, or that the same has died, been lost or destroyed without negligence or fault on his part.

Sec. 5. It shall be the duty of the road Commissioner of the county so far as practicable and as soon as possible, to inform himself of the condition of the public roads of his county, and under such rules and regulations as may be prescribed by the Commissioners court of said county, said road Commissioner shall determine what character of work shall be done upon the different roads of his county, and when and wherever

needed, he shall establish the grade of such roads and direct the manner of draining the same, which directions shall be obeyed and observed by all road overseers unless changed by order of the Commissioners court.

Sec. 6. The road Commissioner may require each road overseer to call out the hands under his direction in such numbers as may be sufficient to use the teams, wagons, tools and machinery allotted to such road district and at such times as may be necessary, but no road hand shall be required to serve in any one year exceeding five days, unless the term of service as prescribed by the general law shall be extended beyond that term. Each road overseer shall have control of all hands within his road district and subject to road duty, and shall see that each such road hand shall perform his duty in working said roads, and that each hand when called out shall perform a fair day's work, and if any hand so called out shall refuse to work in a proper manner, or to do his part of any service assigned to him, such road overseer shall treat him as if he had failed to appear in obedience to the summons, and such hand shall be liable to the same penalties as if he had failed to appear in obedience to the summons. The Commissioners court may allow to any road overseer who shall be engaged in the discharge of the duties of his office for more than five days during any one year, a compensation not to exceed \$1.50 per day for the time so served over and above five days, and in addition thereto said court may enter an order exempting such road overseer from road duty in said county for the next succeeding year, if his service in the opinion of the court has been of a kind to merit such exemption.

Sec. 7. The Commissioners court of said county shall have full power and authority to adopt such system for working, laying out and repairing the public roads in said county as to said court may seem best, and from time to time said court may change its plans or system of work in such manner as it may deem advisable. The said Commissioners court shall have the power to purchase such teams, wagons, tools and machinery as may be necessary for the working of its public roads and also all material that may be needed therefor, all of which shall be paid for out of the road and bridge fund of said county. The Commissioners court of the county may, in its discretion, work the county convicts of said county upon the public roads, but it shall not pay any costs that may be adjudged against said convicts. As a reward for faithful services and good behavior while engaged at any work upon the public roads, the said Commissioners court shall have the authority to grant a reasonable commutation of time for which any convict would be compelled to work in order to pay his fine and costs, and such court shall make proper rules and regulations to govern and control in the granting of such commutation. The said Commissioners court shall have authority to employ such labor as may be necessary to work the public roads of the county, to be paid for out of the road and bridge fund; such labor shall be under the control of the road Commissioner, if one shall be employed, or under such other person or persons as said court may direct and employ for that purpose.

Sec. 8. Every owner of a farm or other lands upon which a hedge of any description grows on or near the line of a public road shall be required to keep the same trimmed so that the height of the same shall not exceed five feet above the level of the ground, and any such owner who shall fail or neglect to so trim such hedge shall be notified in writing by the road overseer of that district to trim such hedge as herein required, and in case such owner shall, after receiving such notice, fail or refuse to so trim said hedge within a reasonable time, he shall be deemed guilty

of a misdemeanor and upon conviction, shall be fined in any sum not to exceed \$20 per week from and after the time that he received such notice, such fine to be paid into the county treasury and to be placed to the credit of the road and bridge fund of said county. If any owner of any farm shall fail or refuse after being notified as herein required to trim his hedge as required by this act, then the road overseer shall cause the same to be trimmed in accordance with the provisions of this act, to be paid for out of the road and bridge fund of the county.

Sec. 9. The Commissioners court of said county may make contracts for all supplies and materials to be used in feeding the hands and teams employed on the public roads and in the work of the same, and may make rules and regulations by which the same and all contracts shall be paid by the county, and all persons employed by said court shall be governed by such rules and regulations. The said court, may from time to time, make all necessary rules and regulations for the government of the road Commissioner and all persons employed by said county on the public roads, which rules and regulations shall be entered upon the minutes of the court and a certified copy delivered to each person to be governed thereby. Said court may require of the road Commissioner to make reports at such times and in such manner as may be prescribed by the said court, and any road Commissioner refusing to make such reports shall be removed and shall be deemed guilty of a misdemeanor and upon conviction shall be fined in a sum not to exceed \$100.00.

Sec. 10. Whenever it shall be necessary to occupy any lands, for the purpose of opening, widening, straightening or draining any road, or any part thereof, if the owner of such land and the county can not agree upon the damages to be paid, the county may proceed to condemn the same in the same manner that a railroad company can condemn lands for right of way, and the same proceedings shall be had and the same rights shall exist as to each party as would exist if the proceedings were by a railroad company, except that the county shall not be required in any case to give bond.

Sec. 11. This act shall be taken notice of by all courts in the same manner as a general law of the state, and it shall be construed to be cumulative of all general laws of the state on the subject of roads and bridges where not in conflict therewith; but in case of such conflict this act shall control as to the said counties of Grayson, Dallas, Galveston, Brown, Comanche, Mills, Fannin, Travis, Hunt, Hill, Kaufman and Fayette. The term "roads," includes the roadbed, ditches and drains, the bridges and culverts, and every part of such road. The term "work and working," as used herein, shall include the opening and laying out of new roads, widening roads, constructing and building, repairing and draining of such roads and everything that may be done in and about the maintenance of such road.

Sec. 12. The Commissioners court of each of the counties named in this act shall have the right to exercise all the authority and powers herein given, and neither of said counties shall be compelled to employ a road Commissioner, unless the Commissioners court of such county shall deem it advisable so to do; provided, that the Commissioners court of either of the aforesaid counties shall appoint a road Commissioner as herein provided for, then the county Commissioners of the county, making said appointment shall not be required to perform the duties required of them by article 4390a, of the Revised Civil Statutes of the State.

Sec. 13. The fact that public travel is greatly impeded by reason of the

bad condition of the roads in said counties, and that the Commissioners courts thereof have not the power to enforce the needful system of road work and supervision herein provided for creates an emergency and imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act originated in the House, and passed the same by a vote of 86 yeas and no nays; and passed the Senate by a vote of 22 yeas and no nays.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the twenty-fifth day of March, A. D. 1891, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the constitution, and thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

SAN ELECEARIO—CHARTER OF REPEALED.

- Sec. 1. Repeals act of incorporation of April 5, 1871.
2. Emergency clause.

CHAP. 11.—[H. B. No. 565.] An act repealing an act entitled "An act to incorporate the town of San Eleceario in El Paso county," passed by the twelfth Legislature, approved April the 5th, 1871.

Section 1. Be it enacted by the Legislature of the State of Texas: That an act entitled "An act to incorporate the town of San Eleceario in El Paso county, passed by the twelfth Legislature, approved 5th day of April, 1871, be and the same is hereby repealed.

Sec. 2. Whereas, many provisions in said act incorporating said town are unjust and oppressive to persons living and owning property within the corporate limits of said town, as prescribed by said act, therefore an emergency exists and an imperative public necessity requiring bills to be read on three several days be suspended, and that this act shall take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act originated in the House and passed the same by a vote of 74 yeas and no nays; and passed the Senate by a vote of 22 yeas and no nays.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 23rd day of March, A. D. 1891, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the constitution, and thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

WACO—AMENDMENT TO CHARTER OF.

Sec.

1. Amends section 15, act of February 19, 1889.

Section 15—Duties of mayor.

- (1) Is chief executive officer.
- (2) Shall inspect subordinate officers.
- (3) Power to summon city council; messages.
- (4) Is chief judicial magistrate of the city.
- (5) May summon a special police force.
- (6) Power to administer oaths of office.
- (7) May enforce closing of theatres, ball rooms, etc., when.
- (8) Signing or vetoing ordinances and resolutions.

Sec.

- (9) May require of persons arrested a bond for good behavior.
 - (10) Power to summon witnesses.
 - (11) May punish for contempt and issue certain writs.
 - (12) May administer oaths.
 - (13) Salary; other duties.
 - (14) Recorder.
 - (15) Police court, powers and jurisdiction of.
2. Adds section 21a.
- (21a) Public improvements, buildings and works.
 - (B) Construction of sidewalks.
 - (C) Raising grades.
 - (D) Grading and paving streets.
3. Emergency clause.

CHAP. 12.—[S. S. B. No. 288.] An act to amend an act entitled "An act to incorporate the city of Waco and to define its boundaries and powers," approved February 19, 1889.

Section 1. Be it enacted by the Legislature of the State of Texas: That section 15 of the above recited act be and the same is hereby amended so that the same shall hereafter read as follows:

Section 15. (1.) The mayor of the city shall be the chief executive officer of said corporation and shall be vigilant and active at all times in causing the laws and ordinances of the government of said city to be duly executed and put in force.

(2.) He shall inspect the conduct of all subordinate officers in the government thereof and as far as it may be in his power shall cause all negligence, carelessness and positive violation of duty to be prosecuted and punished.

(3.) He shall have power whenever in his judgment the good of the city may require it to summons meetings of the city council, and he shall from time to time, communicate to that body all such information, and recommend all such measures as may tend to the improvement of the finances, the police, health, security, cleanliness, comfort, ornament and good government of said city.

(4.) The mayor shall also be the chief judicial magistrate of the city.

(5.) Whenever the mayor may deem it necessary in order to enforce the laws of the city, or to avert danger, or to protect life or property, in case of riot or any out break or calamity or public disturbance, or when he has reason to fear any serious violation of law or order, or any outbreak or any other danger to said city or to the inhabitants thereof, he shall summon into service as a special police force all or as many of the citizens as in his judgment and discretion may be necessary and proper; and such summons as may be by proclamation or orders addressed to the citizens generally, or those of any ward of the city or subdivision thereof; or such summons may be by personal notification; such special police force while in service, shall be subject to the orders of the mayor, shall perform such duties as he may require, and shall have the same power while on duty as the regular police force of said city; and any person so summoned and failing to obey, or appearing and failing to perform any duty that may be required under this act or any ordinance of said city in conformity thereto, shall be fined in a sum not exceeding one hundred dollars.

(6.) The mayor shall have like power with the justice of the peace to administer oaths of office.

(7.) He shall have authority in case of riot or any unlawful assem-

blage, to order and enforce the closing of any theatre, ballroom, grog shop, tippling shop, barroom or other place of resort, or public room, or building, and may order the arrest of any person violating in his presence any of the penal laws of the State, or any ordinance of the city; and he shall perform such other duties and possess and exercise such other power and authority as may be prescribed and conferred by the city council.

(8.) All ordinances and resolutions adopted by the council, shall before they take effect be placed in the office of the city secretary, and if the mayor approve thereof, he shall sign the same, and such as he shall not sign he shall return to the city council with his objection thereto. Upon the return of any ordinance or resolution of the mayor, the vote by which the same was passed shall be reconsidered, and if after such reconsideration, two-thirds of the whole number of aldermen agree to pass the same and enter their vote on the journal of their proceedings it shall be an ordinance of said city, and if the mayor shall neglect to approve, or object to any such proceedings for a longer period than three days after the same shall be placed in the city secretary's office as aforesaid, the same shall go into effect.

(9.) The mayor may require of any person arrested under the provisions of this act, a bond for his good behavior, and to keep the peace, with two good and sufficient sureties, which bond shall be payable to the City of Waco.

(10.) He shall have full power and authority to issue subpoenas for witnesses and to compel their attendance by process of attachment.

(11.) He may punish all contempts by fine and imprisonment, or either, may issue subpoenas, attachments, writs of capias, warrants of arrest, search warrants, executions and all other process known to the law which a justice of the peace of this State may lawfully issue, and all of said writs and process shall be issued, served and executed under the same form and in the same manner as like processes would be when issued by a justice of the peace unless herein otherwise provided.

(12.) He shall also have full power and authority to administer official oaths and all oaths or affirmations in trial before him.

(13.) The city council of said city shall allow the mayor or judge for his services, such salary as they deem necessary, and the mayor shall perform such other duties as may be prescribed by any ordinance of said corporation that may properly and lawfully be required of said official as the judge of said court, and are not inconsistent with the laws and constitution of this State. Provided, that all moneys collected from fines of whatsoever character, imposed by him, shall be paid into the city treasury for the use of the city.

(14.) The city council shall have the power by ordinance to create the office of Recorder, whenever said ordinance is passed by a majority of the aldermen elected, and upon the passage of said ordinance said council shall elect a Recorder, who shall be clothed with all the judicial authority and perform all the judicial duties that are prescribed by this act, and conferred upon the Mayor as Judge of the police court created by this act, and said recorder shall receive such fees and compensation as the council shall fix by ordinance; said recorder shall hold his office until the next annual election, at which election a recorder shall be elected by the qualified voters of the city, and shall hold his office for two years and until his successor is elected and qualified. Provided, that the city council may at any time they see fit repeal said ordinance creating said office of

recorder, in which event the duties of said office with its powers and compensations shall devolve upon the mayor as herein provided.

(15.) The judicial powers of the city of Waco shall be and the same is hereby vested in a court to be known as the police court of the city of Waco, to be presided over by the mayor, or by any other officer authorized by ordinance, which court shall be deemed always open for the trial of causes, and is hereby created and established with a criminal jurisdiction only as follows:

1st. To try, hear, determine and punish all misdemeanors which may be committed in the limits of the city of Waco, except as hereinafter provided.

2nd. To try, hear, determine and punish all offenses arising under the provisions of this charter.

3rd. To have concurrent jurisdiction with the justice and county courts over all misdemeanors arising under the criminal laws of the State, within the city limits, in which the punishment is by fine only, or by fine or imprisonment, or by both; except theft, swindling, embezzlement, and those involving official misconduct; and the mayor or judge of said court shall in addition also be ex-officio Justice of the peace and possess and execute in the city, in criminal cases, all the powers and duties of a Justice of the peace. Said court may grant new trials on motion in writing showing sufficient cause, and duly sworn to; and all trials, prosecutions and proceedings had in said court under this act shall be governed by the laws and rules regulating trials, prosecutions and proceedings in Justice court in force at the time; and shall be a bar to prosecutions for the the same offense in other courts. The city council may determine what costs if any, shall be charged for proceedings in and for all processes issued by said court. In no cause shall the city of Waco pay, or be responsible for any costs in prosecutions in the police court. The style of all writs issued out of the police court of the City of Waco, shall be in the name of the City of Waco. All jurors in said court shall be residents of said city and otherwise possess the same qualifications as jurors in State courts and they shall be summoned in the same manner as provided for in justice courts. Appeals shall be from this court to the county court, when the trial shall be de novo, and said appeals shall be governed by the rules of practice and procedure, for appeals from justices courts to the county courts, so far as the same may be practicable.

Sec. 2. Be it further enacted that the following additional section be and the same is hereby added to said act, and shall hereafter constitute a part of the same.

Section 21. A. In addition to the powers granted to the said city of Waco, in the preceding section, said city shall have power to devote so much of the revenue of the city arising from taxation, loans, or any other source as may in the judgment of the city council be necessary for the erection of public school buildings and hospitals, the purchase and improvement of public works, the construction and repair of storm water sewers and sanitary sewers and the erection and maintenance of waterworks, gas works and electric plants; and for the accomplishment of these purposes and the other purposes specified in section 21 of said act, the city of Waco may borrow money upon the credit of the city; and may issue bonds therefor, registered or coupon in such sums and for such amounts as may be found necessary or expedient; said bonds to bear interest at a rate not exceeding eight per cent per annum, but the aggregate amount of bonds issued by the city and outstanding and unpaid, shall

never exceed eight per cent of the taxable values as shown by the assessment rolls.

B. Construction of Sidewalks. Whenever the city council shall by ordinance require and direct the laying and construction of sidewalks on any streets or portion of a street within the city, the city secretary shall notify the owners of the property fronting on such street or portion of such street, in writing and under the seal of the city, of the passage of such ordinance and reciting the material prescribed for use in the construction of such sidewalk, together with the dimensions as prescribed by ordinance; all property owners upon receiving such notice shall comply therewith within not less than sixty days from the receipt of notice; failing in which the mayor shall advertise for bids for the construction of such sidewalks, and shall cause the work to be let out to the lowest and best bidder, who upon the award of the contract, shall construct such sidewalk under the direction of the city engineer. Upon completion of the work, the contractor shall make out and deliver to the mayor an itemized account of the cost of the work including cost of materials, and a description of the lot or lots abutting such sidewalk, with the names of the owner of such lot or lots, which when receipted and certified to by the mayor under the seal of the city as the original account of said contractor, which had been paid by the city, may be filed and recorded with such certificate in the office of the county clerk of McLennan county, in the books of registry kept for land mortgages, and after such record, the amount so paid any contractor, by the city, shall constitute a lien upon the property fronting on the sidewalk so constructed; and in addition thereto a personal claim against the owner or owners, which lien may be foreclosed and enforced and such claim sued upon and collected in any court of competent jurisdiction, together with interest thereon at the rate of ten per cent per annum from the date of record. And this provision as to fixing lien for sidewalk improvements shall apply to sidewalks already built or improved as well as to those hereafter built or improved. The remedies herein provided for fixing liens shall not be deemed exclusive but held cumulative of existing remedies.

C. Raising Grades. Similar proceedings may be had by the city to require and enforce the filling up and raising of premises to prescribed grades within the city, and in case the owner of any premises fails or refuses to obey the directions of any ordinance requiring his premises to be raised, the city may cause such work to be done by a contractor, as in the case of sidewalks and may establish and foreclose its lien for the cost of such work, and enforce its claim therefor personally, against the owner of such premises, in the same manner as is herein prescribed for the enforcement of the construction of sidewalks.

D. Grading and Paving Streets. Upon the completion of the work of grading, paving, repairing or otherwise improving any particular street or portion of a street, alley or avenue, under any ordinance of the city and the acceptance of such work by the city, it shall be the duty of the city council by ordinance to assess against each lot or parcel of land fronting on the street, alley or avenue, or portion thereof and against the owners of such lots, their proper share of the expenses of such improvements, and such assessments shall constitute a legal claim and demand against the owner or owners of such lots, a copy of such ordinance duly certified to, as correct, by the city secretary under the seal of the city, may be filed for record in the office of the county clerk of McLennan county accompanied with a description of the lots upon such

street or avenue or part thereof, and the amount assessed against each lot or parcel so improved which description may be inserted in the body of the ordinance with like effect as if attached; and such ordinance shall be recorded in the registry book of mortgages of lands and after such record, the particular sums therein assessed against each lot or parcel of land, shall constitute a lien upon such lots or parcel, which lien may be enforced in any court of competent jurisdiction. And this provision as to fixing liens for street improvements shall apply to streets already paved and improved as well as to those hereafter paved or improved; but as to the former shall be cumulative of existing remedies. But no assessment for a street paving or improvement shall ever exceed fifteen per cent of assessed value of abutting lots or parcels of land, nor shall any person be compelled to pay more than his proportionate part of the street that may be in front of his property. Provided, that all railway companies and street railway companies shall be liable for any grading, paving or other improvements hereafter made upon any portion of streets or intersections of streets used or occupied by them, and the cost of such improvements shall operate as a lien upon the property of said companies until paid to the city. Which lien may be fixed in the same manner as is hereinbefore provided for fixing liens as against individuals.

Sec. 3. It being important that the additional powers herein granted to the City of Waco should take effect immediately in order that no delay may occur in the public works already in progress in said city, it is declared that an emergency exists necessitating the suspension of the constitutional rule as to the time laws should take effect, and this act take effect and be in force from and after its passage, and the constitutional rule requiring bills to be read in each house on three several days be and the same is hereby suspended.

[Note.—The foregoing act originated in the Senate and passed the same by a vote of 22 yeas and no nays; and passed the House by a vote of 74 yeas and no nays.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the twenty-fifth day of March, A. D. 1891, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the constitution, and thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

DENISON—ACT INCORPORATING CITY OF.

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 63. To regulate parapet walls, construction of chimneys, etc.
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- Sec.**
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 96. To license, tax and regulate peddlers, pedlars, common showmen, etc.
 97. To license, tax, and regulate drivers of vehicles, etc.
 98. To regulate billiard tables, disorderly houses, tipping shops, gambling, etc.
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 100. To regulate inspection of beef, flour, etc.
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 105. To inspect construction of buildings and to regulate location of poles.
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 143. Right of redemption from tax sales.
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 146. Condemnation of property for streets, alleys, etc.
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Sec.	Sec.
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66. To regulate construction of theatres and public halls.	155. City not required to give bond in suits.
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CHAP. 13.—[S. B. No. 359.] An act to incorporate the City of Denison, in Grayson county Texas, and to fix the boundaries thereof, and to provide for its gov-ernment, and the management of its affairs.

Section 1. Be it enacted by the Legislature of the State of Texas: That all the inhabitants residing within the present limits of the City of Denison in Grayson County, Texas, shall be and are hereby constituted a body corporate and politic by the name and style of "The City of Denison," and by that name they and their successors shall be known in law, and shall have perpetual succession, sue and be sued, plead and be impleaded, defend and be defended in all courts and in all actions or proceedings whatsoever. May contract and be contracted with, may purchase or otherwise acquire, receive and hold property, both real and personal, within said city for city purposes, and may sell, lease or otherwise dispose of the same for the benefit of the city. May purchase, receive and hold property, real and personal, within or beyond the limits of the city, to be used for the burial of the dead, for the maintenance of water works to supply the city with water, for the establishment of a hospital for the reception of persons afflicted with contagious or other diseases, or for the erection of a poor house, work house, house of correction, or for any other purpose which may promote the general good of the city, and may erect buildings or other improvements for the purpose aforesaid, and may sell, lease or otherwise dispose of such property for the benefit of such city, and may have a common seal and change the same at pleasure.

Sec. 2. That the bounds and limits of said corporation, "The City of Denison," and shall be its present limits and boundaries. Any territory adjoining the present or future boundaries of said city may from time to time, in any size or shape desired, be admitted and become a part thereof on application made or written consent given to the city council by the

owner or owners of the land, or, as the case may be, by a majority of the legal voters resident on the land sought to be added. In all such cases the territory so added shall be described by metes and bounds in an ordinance accepting, assenting and adding the same to the municipal corporation, and thereafter the inhabitants of such added territory shall in all respects be on an equal footing with the inhabitants of the original municipal territory.

Sec. 3. That the corporate powers and duties of said city shall, except as herein otherwise directed, be vested in and exercised by a Mayor and board of two aldermen from each ward, who shall be elected and hold their offices as herein provided, and who shall compose the city council of said city.

Sec. 4. The present city council or any subsequently elected council may divide the city into a convenient number of wards, not exceeding six, and define and establish the boundaries thereof, and may change the same from time to time as may be deemed expedient, having regard to the number of inhabitants, so that each ward may approximately contain as nearly as practicable an equal number of qualified electors for city election, and until such division is made by the city council, the city shall remain as now divided, into four wards, and the present mayor of said city and the aldermen of the respective wards heretofore chosen and now in office shall continue to hold their offices until their successors are elected and qualified.

Sec. 5. All qualified electors of this State who shall have resided six months immediately preceding the election within the limits of said city shall have a right to vote for mayor and all other elective officers of said city, but in all elections to determine the expenditure of money or assumption of debt, or levy of special taxes, only those shall be qualified to vote who pay taxes on property in said city, their qualification to be ascertained by an inspection of the assessment rolls of the city.

Sec. 6. The legislative power of the City of Denton shall be vested in the city council, consisting of a mayor and two aldermen from each ward, all of whom shall be elected by the people biennially, as hereinafter provided. Said officers shall perform such duties as are herein required of them, and as may be prescribed by ordinance. The mayor shall receive an annual salary of not more than eighteen hundred dollars, and he shall not receive any fees or commissions. The aldermen shall receive such compensation as the city council may provide by ordinance, not to exceed twenty-five dollars per month and no compensation for any other service whatever shall be allowed.

Sec. 7. No person shall be eligible to the office of mayor or alderman unless, in addition to other qualifications required by law, he be, at the date of his election, a qualified voter of the city of Denton, and shall have resided therein for at least one year preceding his election and shall have paid a city tax, and shall not be in arrears in the payment of any tax or any liability due the city.

Sec. 8. The general elections in said city shall be held on the first Tuesday in April in each year. There shall be elected by the qualified voters of the city on the first Tuesday in April, 1891, and every two years thereafter, a City Judge, a City Treasurer, a City Assessor and Collector, a Chief of Police, and one alderman from each ward of said city, and on the first Tuesday in April, 1892, and every two years thereafter a Mayor and one alderman from each ward of said city who shall hold their offices for two years and until their successors are elected and qual-

ified. Provided, that the present aldermen of the city shall remain in office until the expiration of the respective terms for which they were elected, and in case of a redivision of the city into wards by the city council at any time before any general election, the aldermen whose terms of office have not yet expired shall continue in office during the respective terms for which they were elected as aldermen for the respective wards, created by such redivision, of which they may be residents, and whenever, by reason of such redivision of the city into wards, there shall be, at the time of any general election a ward in which there shall reside no alderman whose term of office has not expired, there shall be chosen at said election two aldermen for said ward, of whom the one receiving the highest number of votes shall hold his office for the term of two years and until his successor is elected and qualified; and the one receiving the next highest number of votes shall hold his office for the term of one year and until his successor is elected and qualified.

Sec. 9. Aldermen from wards must be residents of said ward and voted for only by voters of their wards.

Sec. 10. Said elections shall be held at such places as the city council may direct, and at least thirty days notice thereof shall be given by publication in one or more newspapers of said city.

Sec. 11. Said elections shall be ordered by the mayor or city council. For the purposes of holding such elections, and others ordered, the mayor or city council shall appoint annually in each ward, some suitable person who shall be presiding officer at all elections in his ward.

Sec. 12. The presiding officer in each ward shall select two judges and two clerks, who, with the presiding officer, shall be managers of the election. The presiding officers and judges must be qualified voters in the city. The city council shall provide for their compensation and shall define and regulate their duties and powers. The mayor, whenever an election is ordered, shall give the required notice, and issue to the presiding officer a writ of election and every published notice of election shall state the officer or officers to be elected, the place where the election shall be held, and the name of the presiding officer thereat. In case the presiding officer so appointed is unable, fails, refuses, or neglects to act, or the mayor or city council have failed to appoint, or in case no appointed presiding officer appears to open the polls, the attending qualified voters may appoint such officer, who shall perform the same duties and have the same powers as the first appointee; but in such cases the managers, in their returns or otherwise, shall certify that the presiding officer failed to attend or neglected to act, and that the person acting as such was duly chosen by the electors present.

Sec. 13. The manner of conducting and voting at elections under this act and contesting same, keeping of the poll lists, canvassing the votes and certifying the returns, shall be such as the city council may provide by ordinance, and in case no such provisions are made by the council, then the State election law for cities and towns, so far as applicable, shall govern unless herein otherwise provided.

Sec. 14. The managers of elections shall be sworn to well and truly conduct the elections without partiality or prejudice, and agreeably to law, according to the best of their skill and ability, which oath shall be administered to the judges and clerks by the presiding officer. The presiding officer shall be sworn to discharge the duties of the presiding officer of elections to the best of his skill and ability, which oath shall be administered by the mayor, city secretary, or any justice of the peace.

Sec. 15. Whenever it happens in such elections that there is a tie between two or more candidates for the same office, the mayor or city council shall declare such election void as between such candidates, and order a new election for such office giving at least ten days notice thereof.

Sec. 16. All vacancies in elective offices shall be filled by special elections when an unexpired term of six months or more remained when the office became vacant; but in such cases it shall not be necessary to give more than ten days notice. Special elections shall be conducted as are regular elections. Vacancies in offices filled by appointment by the city council and in elective offices when the unexpired term is less than six months shall be filled by appointment by the city council.

Sec. 17. Every person elected or appointed to any office in the City of Denison, shall, before he enters upon his duties, take the official oath prescribed by the State constitution.

Sec. 18. The other officers of said city shall be a Treasurer, and Assessor and Collector, a City Secretary, a City Judge, a City Attorney, a Chief of Police, a City Engineer, a Street Commissioner, and such other officers and agents as the city council may direct. All the officers above named, except the City Secretary, City Attorney, City Engineer and Street Commissioner, shall be elected by the qualified voters of said city as the present terms of such officers expire, and every two years thereafter as provided in section 8. This section shall not be construed to interfere with the terms of any person now occupying any of said offices. Said officers elected by the qualified voters shall hold their offices for two years, and until their successors are elected and qualified. They shall give such bond as the city council may require, and perform such duties as are herein provided or may be prescribed by the city council. The city engineer, street commissioner, and such other officers and agents as the city council may create shall be elected by the city council on the second Monday in May of each year and shall hold their offices for the term of one year, but they shall be removable from office by the city council at pleasure at any regular meeting, and the city council shall have power at any regular meeting to fill vacancies in such offices by election.

Sec. 19. The compensation of all officers shall be such as may be fixed by the city council and when so fixed shall not be increased during their term of office.

Sec. 20. The term "officer," as used in this charter shall apply only to those officers who are elected by the people or the council for a fixed and definite period, and the same does not include policemen and other agents or employees of said city.

Sec. 21. Any officer moving out of the city limits or the ward from which he may have been elected alderman, or ceasing to possess any of the qualifications required of him shall thereby vacate his office and the same shall be filled by special election or appointment, as the case may be.

Sec. 22. The mayor shall be elected and hold his office as herein provided. He shall be the chief executive officer of the city. He shall have power to appoint special policemen for any special occasion, and call out the militia and military in the city for the suppression of riot or public disturbance. He shall be active in enforcing the laws and ordinances of said city. He shall from time to time give the council information about the condition of affairs, and recommend for consideration such measures as he deems best for the city. He shall have, by the advice and consent of the council, power to appoint experts to examine the

affairs of any department of the city when he thinks it is necessary. In all cases of examination of charges against any officer or employee of the city, election contests, etc., he shall have power to administer oaths, subpoena and compel the attendance of witnesses and the production of books and papers. He shall sign all obligations and contracts of the city. He shall have the power to veto any resolution, by-law, motion, order or ordinance passed by the city council, by filing his written objections thereto within three days after the passage thereof, Sundays and days of passage to be excluded. At the next regular meeting or as soon thereafter as practicable the council shall consider such objections and unless the council pass the measure over his veto by a two-thirds vote of the aldermen present, taken by yeas and nays, said measure shall be of no effect. The mayor shall have power to require any officer of the city to exhibit his books and papers, and a refusal of any officer when so required shall be deemed a forfeiture and abandonment of said office. The mayor shall have and exercise such other powers as may be conferred by the general law of the State upon mayors of cities incorporated under such general laws and not herein prohibited, and also exercise such other powers and perform such other duties as may be conferred and required by the city council, not inconsistent with this charter.

Sec. 23. The judicial power of the city of Denison shall be and the same is hereby vested in a court, to be known as the Denison City Court, to be presided over by a judge to be known as the City Judge, which court is hereby created and established with a criminal jurisdiction as follows: First, to try, hear, determine and punish all offenses against the ordinances of the city of Denison of which the Mayor's court of said city now has jurisdiction. Second, to try, hear, determine and punish all misdemeanors arising under the ordinances of said city authorized by any of the provisions of this charter. Third, to have concurrent jurisdiction with the justices courts over all misdemeanors against the laws of the State of Texas, of which the justices courts of the State have or may have jurisdiction, committed within the limits of the city of Denison. All prosecutions shall be conducted in the name of the City of Denison, and it shall not be necessary in order to the exercise of the jurisdiction over misdemeanors against the laws of the State above mentioned for the city council to re-enact by ordinance any State law, creating, defining and publishing such offenses.

Sec. 24. Said city court shall be deemed always open for the trial of said causes, and proceedings before said court shall be commenced by filing a written complaint, specifying the charges made against the accused with reasonable certainty, which complaint shall be sworn to, and shall not be quashed for any formal defects, if it substantially sets forth the nature of the violation alleged. Said court shall have no civil jurisdiction.

Sec. 25. All process of such court shall run in the name of the City of Denison, and shall be served and executed in the same manner as like process issuing from a State court unless herein otherwise provided. The practice and procedure of the State courts, so far as applicable and practicable, shall govern in said city court, unless otherwise provided herein or by ordinance of the city council.

Sec. 26. In lieu of the office of Recorder of the City of Denison, there is hereby created the office of City Judge, which shall be filled by some suitable person to be elected by the people at the regular annual election in April, 1891. Such officer when elected shall be known as the City Judge,

and shall preside over and hold said court and discharge all the duties thereof. He shall hold his office for the term of two years, and until his successor is elected and qualified. He shall be a resident of said city and a qualified voter therein. He shall be a person learned in the law.

Sec. 27. He shall have full power and authority to enforce all powers of said city court. He shall have full power to issue subpoenas for witnesses and to compel their attendance by process of attachment. He may punish all contempt of his court by fine and imprisonment or either. He may issue subpoenas, writs of *capias*, warrants of arrest, search warrants, executions, and all process known to law which State courts in such cases may issue. He may require of any person arrested a bond for his or her good behavior, and to keep the peace, or for his or her appearance before said court, with two good and sufficient sureties, which bonds as well as all other bonds taken in any proceedings in said court shall be payable to the City of Denison, and said city court shall have the power to enforce the forfeiture of the same in the same manner as State courts. He shall have full power to administer official oaths and affirmations and give certificates therefor. The city council may determine what costs, if any, shall be charged for proceedings in and for all process issued by said court, and shall allow the Judge thereof for his services such compensation as they may deem just. He shall perform all the duties as herein required, and such other duties as may be prescribed by ordinance not inconsistent with the constitution of the State. All fines imposed by said court shall be paid into the city treasury for the use of the city. In cases of temporary failure to act for any cause on the part of the City Judge, the Mayor is hereby authorized to appoint some person qualified, who shall discharge the duties of said office and receive the pro rata compensation due therefor. Until the election of such city judge the provisions herein referring to said city judge shall not be construed to interfere with the jurisdiction of the present mayor's court of the City of Denison, which shall continue to exercise such powers and jurisdiction as are now conferred upon it until such time as the city judge herein provided for has been elected and qualified.

Sec. 28. All jurors in said court shall be residents of said city and otherwise possess the same qualifications as jurors in State courts. They shall be summoned and selected in such manner as the city council may provide by ordinance.

Sec. 29. Appeals from said city court shall be to the county court of Grayson county. Said appeals shall be governed by the same rules of practice and procedure that govern appeals from justice courts so far as applicable.

Sec. 30. There shall be a police department, composed of a chief of police who shall be elected as heretofore provided, and such policemen as may be employed on the force, and a police board, composed of the mayor and any two aldermen selected for that purpose. The mayor shall be chairman of said board. Said board shall make such rules and regulations for the government of said department as to them may seem best.

Sec. 31. The chief of police shall be the police officer of the city under the mayor. He may, with the consent of the city council appoint a deputy. He shall attend all meetings of the city council and the city court and promptly and faithfully execute all writs and process issued from said court. He shall have like power with the Sheriff of the county to execute search warrants and other writs. He shall be active in quell-

ing riots, disorders, disturbances of the peace and violations of law of every kind within the city limits, and shall take into custody all persons thus offending, and may take good and sufficient bail for the appearance before the city court of any person charged with any offense against the ordinances or laws of the city. It shall be his duty to arrest, with or without warrant, all violators of said ordinances or laws and all who obstruct or interfere with him in the discharge of his duties. In the prevention and suppression of crime and arrest of offenders, he shall have the same power of a sheriff of a county under the laws of the State. He shall perform such other duties and possess such other powers as the council may by resolution or ordinance require or confer.

Sec. 32. It shall be the duty of the City Secretary to attend every meeting of the city council, and keep accurate minutes of the proceedings thereof in a book to be provided for that purpose, and to engross and enroll all laws, resolutions and ordinances of the city council; to keep the corporate seal; to take charge of, to preserve and to keep in order all books, records, papers, documents and files of said council; to countersign all commissions issued to the city officers and licenses issued by the mayor, and to keep a record or register thereof, and to make out all notices required under any regulation or ordinance of the city. He shall draw all warrants on the treasurer, and countersign the same, and keep an accurate account thereof in a book provided for that purpose. He shall be the general accountant of the corporation and shall keep in books the regular accounts of the receipts and disbursements of the city, and separately, under proper heads, each cause of receipt and disbursement; and also account with each person, including officers who have money transactions with the city, crediting amounts allowed by proper authority and specifying the particular transaction to which such entries will apply. He shall also keep a register of bonds and bills issued by the city, and all evidence of debt due and payable to it, noting the particulars thereof, and all facts connected therewith, as they occur. He shall carefully keep all contracts made by the city council, and he shall do and perform such other duties as may be required of him by law, ordinance, resolution or order of the city council. He shall receive for his services an annual salary payable at stated periods, and such additional fees as may be allowed by the city council. He shall also be the secretary of the board of school trustees.

Sec. 33. The city attorney shall attend to all cases in any court in the State, wherein the city may be a party in interest, unless the council otherwise provides. He shall draw all ordinances and inspect and pass upon all papers and documents involving any interests of the city. He shall be the legal adviser of the mayor, the city council, or any committee thereof and all city officers upon legal questions touching their duties. He shall receive such compensation and fees as the council may allow, give such bond and perform such other duties as the council may prescribe. The city council shall have power, when in their judgment it becomes necessary, to employ counsel to assist the city attorney in protecting the interests of the city.

Sec. 34. The city engineer shall inspect and pass upon the construction of all 'public works ordered by the city, and shall make out plans and specifications and estimates therefor. He shall do the surveying and engineering ordered by the city; he shall preserve all plans, maps, notes, surveys, books, papers and documents and other things pertaining to his office made by him or in his charge, and deliver the same to his successor

in office. He shall have such other powers and perform such other duties as may be required of him by the council, by resolution, ordinance or otherwise. The city engineer shall receive such compensation as the city council may prescribe and give such bond as may be required by the city council.

Sec. 35. The assessor and collector shall make up the assessment of all property taxed by the city, and make duplicate rolls thereof, and on completion of the rolls shall deliver one of them to the city secretary. He shall collect all taxes due the city, and in event of nonpayment of any taxes, shall proceed to sell property to raise the amount of taxes so due; and shall in the performance of his duties observe the provisions of this act and the ordinances of the city relating thereto. He shall give bond in such amount and in such form as the city council may prescribe, with good and sufficient sureties, and the city council may require a new bond whenever in their opinion the existing bond is insufficient; and whenever such bond is required he shall perform no official act until said bond shall be given and approved. He shall, at the expiration of every week, pay to the treasurer all money by him collected and shall report to the council at the first meeting in every month, all money so collected and paid, and he shall perform all such other duties, and in such manner and according to such rules and regulations as the city council may prescribe. The assessor and collector is authorized to require the owners of all property subject to taxation to render a correct account of the same under oath, to be administered by him. The assessor and collector shall receive such fees and compensation for his services as may be allowed by the ordinances of the city. He may by consent of the city council and subject to their approval, appoint at his charge one or more deputies who may, in his name, perform all such duties and exercise all such powers in regard to assessment for taxation, as are conferred on the assessor and collector, and who shall take such oath as may be prescribed by the city council and for whose acts as such deputy the assessor and collector and his bondsmen shall be responsible.

Sec. 36. The city treasurer shall give such bond as the city council may require, conditioned for the faithful discharge of his duties. He shall receive and securely keep all monies, belonging to the city, and make all payments for the same upon the order of the Mayor attested by the secretary under seal of the corporation; provided, that no order shall be paid unless it shows upon its face that the city council has ordered its issuance, and for what purpose. He shall render a full and correct statement of his receipts and payments, to the city council at their first regular meeting in every month, and at such other times as the council may require. He shall perform such other acts and duties as the council may require, and receive such compensation as the council may prescribe. He shall also be treasurer of the board of school trustees.

Sec. 37. The city council shall have power from time to time to require other duties of all city officers.

Sec. 38. The city council shall be composed of the mayor and aldermen provided for in this charter. The mayor shall be president of the council, and in case of a tie on any question he shall give the casting vote, but in elections he shall vote as other members of the council. At the first meeting of each new council, or as soon thereafter as practicable, the council shall elect one of the aldermen president, or mayor pro tem, who shall hold his office for one year. In case of failure, inability or refusal of the mayor to act, the president pro tem shall perform the

duties of the mayor, In the absence of the mayor and the president pro tem any one of the aldermen present may be appointed to preside.

Sec. 39. A majority of the aldermen shall constitute a quorum for business, but a smaller number may adjourn from day to day and may compel the attendance of absent members. At meetings for the imposition of taxes two-thirds of the board shall be required. Regular meetings of the council shall be at such times as the council may fix by resolution or otherwise, but the mayor on his own motion or at the request of three or more aldermen may call special meetings by written notice thereof served upon each member or left at his usual place of abode or usual place of business. Such notices shall state the object or purpose for which such meeting is called.

Sec. 40. The city council shall adopt such rules and regulations for its government and order of business as its members may deem best. It shall be the judge of the qualifications and elections of its members, including the mayor. It shall also be the judge of the election and qualifications of all city officers. It may punish members or other persons during its sittings for disorderly conduct, by fine. It may with an affirmative vote of two-thirds of the whole number of aldermen elected and qualified, the yeas and nays being called for and recorded, remove any officer of the city for any conduct or offense which, in the opinion of the council expressed by the two-thirds votes aforesaid, shall render him unfit to hold his office; but no officer shall be removed until he shall have had the opportunity of being heard himself, or by counsel or by both.

Sec. 41. The meetings of the council shall be public except when, by a majority vote of the members present, it may be deemed expedient to deliberate with closed doors upon any special question.

Sec. 42. A record of the council proceedings shall be kept by the city secretary and each vote taken by yeas and nays shall be entered therein, and no action of the council shall have any force unless a majority of the members shall have voted in favor of it.

Sec. 43. The city council shall have the management and control of the finances and all property, real, personal or mixed belonging to the city. And the city council shall also have power by ordinance to exempt any person, firm or company from the payment of taxes upon any manufactory that is now or may hereafter be established or constructed and operated in this city for a period not to exceed ten years, when any manufactory shall equal in cost of machinery and buildings connected therewith the sum of ten thousand dollars.

Sec. 44. The city council shall have power to appropriate money and provide for the payment of the debts and the expenses of the city.

Sec. 45. To provide by ordinance special funds for special purposes provided for under this charter and to make the same disbursable only for said purposes and to impose proper penalties for enforcing the same.

Sec. 46. To provide by ordinance for the payment of any existing and outstanding indebtedness and for the payment of any bonds that may from time to time be issued.

Sec. 47. To make regulations to prevent introduction of contagious diseases into the city, to make quarantine laws for that purpose and to enforce them in the city and within ten miles thereof.

Sec. 48. To provide or cause to be provided the city with water; to make, regulate and establish public wells, pumps and cisterns, hydrants, reservoirs and standpipes in the streets or elsewhere in said city or beyond the limits thereof for the convenience of the inhabitants and the

extinguishment of fire and to prevent the unnecessary waste of water and to condemn all right of ways necessary for that purpose.

Sec. 49. The city council shall have exclusive control and power over the streets, alleys, crossings, highways and public grounds in the city and to abate and remove all encroachments or obstructions thereon, to open, alter, abolish, widen, extend, establish, regulate, grade, pave, macadamize, clean or otherwise improve said streets or alleys and to protect the same from all encroachment or injury of every kind whatsoever. And to cause all able-bodied male inhabitants who have resided in the city fifteen days, above twenty-one years of age and under forty-five, except ministers of the gospel in actual charge of a church, members of the State militia and members of the fire department, to work thereon not exceeding two days in any one year or furnish a substitute or a sum of money (not to exceed one dollar for each days work demanded), to employ said substitute and to enforce the same by appropriate ordinances. No dedication hereafter made by private owners of any ground within the city for a public street or alley, either by laying off or platting the same or otherwise, shall be sufficient to make the same a public street of the city, until such dedication has been accepted by ordinance of the city council, and all streets, avenues and alleys that may hereafter be made by any additional plat or territory shall conform to the present streets, avenues and alleys, so far as practicable.

Sec. 50. To establish, erect, construct and keep in repair bridges, conduits, sewers and sidewalks, and regulate the construction and use of the same and to abate or punish any obstruction or encroachment thereon. To construct, regulate, maintain and repair or alter or abolish viaducts, subways, crossings, and approaches over, under or across any railroad track or tracks.

Sec. 51. To prevent the incumbering of streets, alleys, sidewalks and public grounds with carriages, wagons, carts, hacks, buggies, or other vehicles, with boxes, timber, firewood, posts, awnings, signs or anything else whatever, in any manner whatever; to compel all persons to keep all weeds, filth, rubbish or trash of every kind from their premises and from the sidewalks, streets, gutters and alleys in front of or adjoining the premises occupied by them, and to pass all ordinances necessary to enforce such things.

Sec. 52. To permit, prevent and regulate the laying of gas and water mains and pipes therein. To compel any person using the streets, alleys or sidewalks for the purpose of laying gas or water mains or pipes, sewer pipes or for building or other purposes, to repair, to clean up and restore said streets, sidewalks and alleys so used.

Sec. 53. To prevent any street or sidewalk from being dug up or excavations from being made therein, unless the same be done with the permission of the city council and under the direction of the city engineer. To temporarily vacate any street or alley of this city or any portion thereof whenever by reason of excavations in same or work going done thereon, or the bad repair thereof or of any bridge, culvert or viaduct therein, the uses of the same may be considered dangerous and inadvisable.

Sec. 54. To regulate, change and establish the grade of all sidewalks, streets and premises and to require and compel the filling up and raising of the same.

Sec. 55. To divide and redivide the city into wards, and alter the

boundaries thereof for the purpose of equalizing the population of the several wards.

Sec. 56. To provide for lighting the streets and public grounds and erecting lamp posts, electric towers or other lighting apparatus. An to determine the character or kind of poles to be used, their height and place of locating same.

Sec. 57. To provide for the erection of market houses, establish markets and market places and provide for the government and regulation thereof. To provide all needful buildings for the use of the city. To provide for inclosing, improving, ornamenting and regulating all public grounds belonging to the city. To provide hospitals and to regulate and maintain the same, and to prohibit or to permit and regulate private hospitals. To establish an active system of inspection over premises and the conduct of persons.

Sec. 58. To establish and regulate public grounds and to regulate, restrain and prohibit the running at large of horses, mules, cattle, sheep, swine, goats, geese and other animals in the city, and to authorize the distraining, impounding and sale of the same for the costs of the proceedings and penalty incurred, and to order their destruction when they can not be sold and to impose penalties on the owners or keepers thereof for violation of any ordinance, whether they reside in or out of the city, and at all such sales the purchaser of any animal shall be given a good and valid title thereto if the provisions of the ordinances have been complied with, whether the owner of such animal resides in or out of the city.

Sec. 59. To establish a free library in said city, and to adopt rules and regulations for the proper management thereof and to appropriate such part of the revenue of the city for the management and increase of such free library as the municipal government may determine.

Sec. 60. To establish and maintain a city police, prescribe the duties and powers of policemen and regulate their conduct.

Sec. 61. To regulate, retain, locate, abate or prohibit slaughter houses, glue factories, bone boilers, hide houses or establishments for curing hides, soap factories, places for rendering lard, tallow, offal and other substances that can be rendered and all other establishments where any nauseous, dangerous, offensive, and unwholesome business may be carried on.

Sec. 62. To regulate the storage and transportation of all illuminating oils, high explosives, gunpowder, tar, pitch, hay, straw and all other inflam[m]able oils and combustibles of every kind.

Sec. 63. To regulate parapet walls, to prevent dangerous construction and condition of chimneys, fire places, hearths, stoves, and stove pipes, boilers and other heating apparatus and cause the same to be removed or made safe.

Sec. 64. To prevent the deposit of ashes in unsafe places. And cause the removal from ones premises of all trash, old paper, straw, goods boxes, barrels, and anything dangerous on account of fire, and of all filth, slops, animal and vegetable matter and everything else offensive and dangerous to health and comfort and to cause all buildings and enclosures in a dangerous state to be put in a safe condition.

Sec. 65. To prevent or regulate the carrying on of manufactories and works dangerous in causing or promoting fires, and to regulate the location of cotton presses, sheds and other buildings dangerous on account of fire.

Sec. 66. To regulate the size, number and manner of construction of

doors and stairways of theatres, tenement houses, audience rooms, public halls and all other buildings used for the gathering of a large number of people, whether now built or hereafter to be built, so that there may be convenient, safe and speedy exit in case of fires.

Sec. 67. To require the construction of suitable and safe fire escapes on or in hotels, lodging houses, factories and other buildings, whether now built or hereafter to be built.

Sec. 68. To establish and maintain a fire department, fix the number and compensation of all firemen, employes, and members of the department, prescribe their respective duties, regulate their appointment and dismissal, and fix penalties for the violation of all regulations pertaining thereto; to procure steam fire engines and other apparatus for extinguishing fires, provide for the care, management and maintenance of the same, and to do everything whatsoever necessary for the regulation and maintenance of such department, and have power to create, regulate and maintain fire alarm system or systems.

Sec. 69. To regulate, prevent and prohibit the use of fire works and fire-arms.

Sec. 70. To compel the owners of houses or other buildings to have scuttles in their roofs and stairs or landings leading to the same.

Sec. 71. To establish fire limits and to prohibit the erection of buildings, placing, removing or repairing of wooden or other dangerous buildings within said limit, also to prohibit the removal of any wooden building from one place to another within said limits and they may require all buildings within said limits to be constructed with fire proof material, also they may prohibit the repairing of wooden buildings within said limits when the same shall have been damaged thirty-three and one-third per cent of their value and may provide the mode of ascertaining such damage, and may declare all dilapidated buildings which they deem dangerous on account of fire or otherwise, nuisances, and require the same to be torn down or removed in such manner as the council may direct.

Sec. 72. To authorize one or more officers, agents or employees of the city to enter into and open all buildings and premises to examine and discover whether the same are dangerous on account of fire, or in any unclean state and cause all defects to be remedied, trash to be removed, and generally the council shall have power to establish such regulations for the prevention and extinguishment of fires as it may deem expedient and necessary.

Sec. 73. The city council shall have power to erect, own, maintain and operate water works for the use of the city and its inhabitants, and to regulate the same. To prescribe rates for water furnished to said inhabitants and make such rules and regulations as the said council may deem expedient. Also they shall have the power to purchase and construct such works and acquire by purchase or donation suitable grounds on which to erect such works and all necessary right of way and to do everything whatever necessary to acquire, operate and maintain said works.

Sec. 74. To provide workhouses for vagrants and disorderly persons who are unable or refuse to pay fines, or who have been sentenced to fine or imprisonment, or to compel them to work on the streets, alleys and any public works and make all necessary regulations concerning the same.

Sec. 75. To define what shall be nuisances in the city and within three

thousand feet of the corporation lines outside of the same and to abate them by summary proceedings, and punish the authors thereof by penalties, fines or imprisonment.

Sec. 76. To provide, keep and regulate a city prison.

Sec. 77. To establish standard weights and measures and to regulate weights and measures to be used in the city, and to provide for and regulate the inspection, weight and quality of everything to eat and drink offered for sale in the city. To provide for the inspection and weighing of hay and coal and the measurement of firewood and other fuel to be sold in the city.

Sec. 78. To provide for taking the enumeration of the inhabitants of the city.

Sec. 79. To prescribe fines and forfeitures and penalties for breach of any ordinance enforcing the powers granted in this charter, and to provide for the recovery and appropriation of such fines and forfeitures and the enforcement of such penalties.

Sec. 80. The city council shall have full power and authority by ordinance to regulate, control and prohibit the carrying of firearms and other weapons within the city limits and is hereby empowered to provide and inflict the same punishment therefor as is now or hereafter may be provided by the State law against persons unlawfully carrying weapons.

Sec. 81. To tax, regulate, restrain or prohibit the running at large of dogs and authorize their destruction when at large contrary to ordinances and to impose penalties on the owners, harborers or keepers thereof for violation of such ordinances.

Sec. 82. To provide for the suppression and prevention of any riot, rout, noise, affray, disturbance and disorderly assembly in any public or private place within the city.

Sec. 83. To prevent, prohibit and suppress horse racing, immoderate riding or driving in the streets; to prohibit and punish abuse and cruelty to animals, birds and fowls of every kind. To compel persons to fasten their horses or animals attached to vehicles or otherwise, while standing or remaining on the streets or other public places.

Sec. 84. To prohibit or restrain the rolling of hoops, the flying of kites, firing of fire crackers and fire works of every kind, the riding of bicycles or tricycles or any other amusements having the tendency to annoy persons in passing in the streets or on the sidewalks. To restrain and prohibit the ringing of bells, the blowing of horns and bugles, the crying of goods and other noises, practices and performances tending to collect persons on the streets or sidewalks by auctioneers and others for the purpose of business or otherwise.

Sec. 85. To restrain, regulate and punish vagrants, street beggars and prostitutes.

Sec. 86. To do all acts and make all regulations which may be necessary and proper for the promotion of health or the suppression of disease. To compel the owners and occupants of any unwholesome house or place, to cleanse, disinfect, remove or abate the same as may be necessary for the health, comfort and convenience of the inhabitants, and they may co-operate with the Commissioners court of Grayson county in making such improvements as may by such authorities and court be deemed necessary to improve the public health and to promote sufficient sanitary regulations and arrange for the construction of and payment for such improvements.

Sec. 87. To regulate the burying of the dead, the registration of

births and deaths, direct the keeping and returning of bills of mortality and impose penalties on physicians, undertakers, sextons and others for any default in the premises.

Sec. 88. To prevent all boxing matches, sparring exhibitions, cock-fighting, prize fighting and dog fighting and punish all persons thus offending.

Sec. 89. To prevent all trespasses, breaches of the peace and good order, assaults, assaults and batteries, fighting, quarreling, using abusive and insulting language and all misdemeanors over which the city court is given jurisdiction by section 23 of this charter, and all disorderly conduct of every kind and to punish all persons thus offending with the same penalties as may be inflicted therefor by the State laws. To regulate drumming on the streets or sidewalks, railway platforms or other public places.

Sec. 90. To control and regulate the use of steam whistles in the city limits.

Sec. 91. To regulate, license or prohibit butchers, prevent their slaughtering, dressing or skinning animals within the city limits, and revoke their license for mal-conduct in trade, and regulate, license and restrain the sale of fresh meats, fruits and vegetables.

Sec. 92. To compel the owner or occupant of any grocery, soap, tallow or chandler establishment or blacksmith shop, tannery, stable, cow lot, hog pen, slaughter house, distillery, brewery or other building, or sewer, privy, hide house or other unwholesome or nauseous place or house, to cleanse, remove, fill up, repair or abate the same as may be necessary for the health, comfort and convenience of the inhabitants.

Sec. 93. To require the owners of private drains, sinks, and privies, to fill up, cleanse, drain, alter, relay, repair, fix, and improve the same as they may be ordered by resolution or ordinance, and impose penalties upon persons failing to do the same. If there be no person in the city on whom such order can be served, the city can have such work done and the cost of the same shall be a lien upon the property and taxed up against it, collected in such manner as the city council may determine.

Sec. 94. To prevent any person from bringing, depositing or having within the city limits the carcass of any dead animal or any other unwholesome substance, or matter or filth of any kind, and to require prompt removal of the same, and impose all necessary penalties for the enforcement of such powers.

Sec. 95. To license, tax and regulate merchants, commission merchants, hotel and innkeepers, drinking houses or saloons, barrooms, beer saloons and all places or establishments where intoxicating or fermented liquors are sold; brokers, money brokers, real estate agents, insurance agents, insurance brokers, auctioneers and all other trades, professions, occupations and callings of every kind, the taxing of which is not prohibited by the constitution of the State, which tax shall not be construed to be a tax on property. Provided no occupation tax shall be levied against any laborer as such, or any clerk, accountant, bookkeeper or other person working at his trade as a journeyman.

Sec. 96. . To license, tax and regulate peddlers, pawnbrokers and keepers of theatrical and other exhibitions, shows and amusements. To license, tax and regulate or prohibit theatres, circuses, the exhibitions of common showmen, and shows of any kind, and exhibitions of natural and artificial curiosities, menageries and musical exhibitions and performances, and to regulate and license or prohibit street parades, striking

machines, lung testers, doll racks, cane racks, and exhibitions, devices and things for which a fee is charged.

Sec. 97. To license, tax and regulate hackmen, draymen, omnibus drivers, baggage wagon drivers, and drivers of vehicles of every kind and all others pursuing like occupations with or without vehicles, and prescribe their compensation, and make it a misdemeanor for them to charge more than legal compensation, or for any person to attempt to defraud them of any legal charge for services rendered, and to regulate stands for vehicles.

Sec. 98. To license, tax and regulate billiard tables, pin alleys, and ball alleys, to suppress, restrain, regulate and control disorderly houses, tippling shops and groceries, gambling and gaming houses and games of every kind, lotteries and all fraudulent devices and practices, bawdy houses of prostitution and to punish all keepers of said houses and exhibitors of or players at said games and other things with the same penalties, fine and imprisonment as may be inflicted therefor by the statutes of the State of Texas. The city council shall have power to prohibit any person or persons from opening, keeping or maintaining any saloon, beer house, wine house or other place or places where intoxicating, vinous or malt liquors are sold in any resident portion of the city, until said person or persons shall have first obtained the written consent of two-thirds of the property holders residing within five hundred feet of the place where such business is to be carried on, and to order the same closed whenever any of the said places are kept disorderly or not in accordance with the laws of the State of Texas in such case made and provided, or the ordinances of the city. The city council shall have the power to cause the immediate removal of any person or family from any part of the city for keeping any disreputable house, or house or room of any house, where bawds or prostitutes or other persons of bad character are permitted to stay, visit or frequent, and to punish any one refusing to move when notified, by fine and imprisonment or either, and each day such person or persons shall remain after such notice has been given shall constitute a separate offense. And in prosecutions of such offense it shall not be necessary for the city to prove any overt act of prostitution, but shall be allowed to prove the character of such house by general reputation.

Sec. 99. To restrain, regulate or prohibit the selling or giving away indirectly to evade the tax or penalty, of intoxicating or malt liquors or anything else by any person within the city, except by persons duly licensed. To forbid and punish the selling, bartering, or giving away of any intoxicating or malt liquors to any minor, apprentice or habitual drunkard.

Sec. 100. To regulate the inspection of beef, pork, flour, meal, fish, salt and all other provisions, whiskey and other liquors, and to appoint weighers, gaugers and inspectors, and prescribe their duties and powers and regulate their fees.

Sec. 101. To close drinking houses saloons, barrooms, beer saloons, and all places or establishments where intoxicating or fermented liquors are sold on Sunday and prescribe hours for closing them and all places of amusement and business.

Sec. 102. To prevent the sale, bartering, or giving away of any intoxicating liquors in any house or place where any theatrical or dramatic representations are given, and to prevent the same from being brought in or to such places under any pretext whatever. All rooms, buildings or apartments of any kind inside the room where such representations are

given, or being a part of it, or adjoining, or connected therewith by any doors, dumb waiter or opening of any kind shall be held to be within the places inhabited within this section.

Sec. 103. To make all needful and proper regulations concerning bakers, butchers, hotel keepers, theatres and other public houses; also all draymen, horse drivers, water carriers, omnibus drivers, hack drivers and drivers of baggage wagons, and other vehicles, and especially to preserve order and prevent noise and confusion in and about the several depots on the arrival and departure of trains, and to make and regulate stands for vehicles at said depots and other public places.

Sec. 104. To regulate or prohibit the driving of cattle and other stock through the streets of the city.

Sec. 105. To inspect the construction of all buildings in the said city. To regulate and locate the erection of all the poles in the said city and cause the same to be changed, whether telegraph, telephone, electric light or otherwise.

Sec. 106. To regulate the speed of engines and locomotives within the city.

Sec. 107. To direct and control the laying and construction of railroad tracks, turnouts and switches, and to require that they be constructed and layed so as to interfere as little as possible with the ordinary travel and use of the street, and to require that they be kept in repair. To regulate the use of locomotive engines; to direct and control the location of cable and other street railroad tracks, and to require railway companies of all kinds to construct, at their own expense, such bridges, turnouts, culverts, crossings and other things as the city council may deem necessary. To regulate the speed of all railroad trains within the city limits and their stops at street crossings, and require said companies to keep the streets through which they run in repair, and to levy special taxes or assessments upon them for street improvement, the same as against property owners, and may compel any and all railroad companies to furnish and keep a sufficient number of watchmen at all principal street crossings in the city limits.

Sec. 108. To prevent and regulate the running of horse railway cars, or cars propelled by dummy engines or other power, the laying down tracks for same, the transportation of passengers thereon, the form of the rail to be used and everything else concerning street railways, and to levy special taxes or assessments against such roads for street improvement the same as against property owners.

Sec. 109. The city council shall have the sole authority to grant, upon such terms as [to] it may seem fit, the right to any person, corporation or company to make and construct street railways or other railroads in any street or highway in said city, receive compensation therefor and to regulate and control the use thereof.

Sec. 110. No railroad company, street, steam or other kind, no telephone, telegraph, electric light company or other kind, no person or corporation shall ever occupy or use the streets or highways of the City of Denison without first obtaining consent of the city council.

Sec. 111. The city council shall have power to levy and collect the ordinary municipal taxes upon the roadbed, rights, franchises and all the property of street railroads of every kind, whether their motive power be steam, horse, mule, electricity, or otherwise. Also to require them to pay their pro rata share of improving the space between the rails of and so much outside of same as the council may require [of] such

road, on any street improved or occupied by them including street intersections; and shall have power to levy and collect special assessments against such roads and their owners for such purpose, and such assessment shall be a lien on such roads and all their rights and franchises, and shall be collected as from other property owners on the street so improved.

Sec. 112. The city council shall have power to provide by ordinance for funding the whole or any part of the existing debt of the city, or any future debt, by cancelling the evidence thereof, and issuing to the holders or creditors, notes or bonds with or without coupons, bearing interest not to exceed six per cent per annum. Provided, that temporary loans may bear interest at any rate not exceeding ten per cent.

Sec. 113. The council shall have power to appropriate so much of the general revenue of the city for the purpose of retiring and discharging the accrued indebtedness of the city, and for the purpose of improving the streets, constructing sewers, erecting and maintaining public school buildings of every kind, water works, and purchasing building sites and locations therefor, and for all other public improvements authorized to be made by this charter, as the city council may from time to time deem expedient, and in furtherance of any and all of these objects, the city shall have the right and power to borrow money upon the credit of the city, and issue coupon bonds of the city therefor, in such sums or sum as may be deemed expedient, to bear interest not to exceed six per cent per annum, payable semi-annually at such place as may be designated by the ordinance; provided that the aggregate amount of bonds issued for the above named purposes shall never reach an amount exceeding six per cent of the assessed valuation of the real estate in said city.

Sec. 114. All bonds shall specify for what purpose they are issued, and shall not be invalid if sold for less than their par value, and when any bonds are issued by the city, a fund shall be provided to pay the interest and create a sinking fund to redeem said bonds, which fund shall not be diverted or drawn upon for any other purpose except to pay the interest upon or redeem the bonds for which it was provided.

Sec. 115. Said bonds shall be signed by the mayor, countersigned by the city secretary and shall be payable at such places and such times as may be fixed by ordinance of the city council, within not less than ten nor more than fifty years, and shall be registered by the city secretary when sold and delivered.

Sec. 116. It shall be the duty of the mayor when such bonds are issued to forward the same to the Comptroller of the State, whose duty it shall be to register them in a book kept for that purpose, and endorse upon each bond registered his certificate of registration, and at the mayor's request to certify to the amount of bonds so registered in his office up to date.

Sec. 117. It shall be the duty of the mayor at the time of forwarding such bonds for registration to furnish the Comptroller with a statement of all taxable property, real and personal, in the city; also with a statement of the amount of tax levied for the payment of interest and to create a sinking fund. It is hereby made the duty of the Comptroller to see that a tax is levied and collected by the city sufficient to pay the interest semi-annually on all bonds issued, and create a sinking fund sufficient to pay said bonds at maturity, and see that sinking fund is annually invested in bonds of the United States, or of the State of Texas, or of the City of Denison or applied to the redemption of the bonds for which it is set aside.

Sec. 118. The city council shall have the power, and it is hereby authorized to annually levy and collect a tax not to exceed one and one-half per centum on the assessed value of all real and personal property in said city not exempt from taxation by the constitution and laws of the State, out of which taxes so levied the city council may set apart annually not exceeding one half of one per centum on the assessed value of all property subject to taxation in said city, for the support and maintenance of public free schools and for the purchase of ground upon which to erect school buildings, and repairs and furnishing of such buildings for said free schools. And said council may levy and collect an additional tax not to exceed one per centum on the assessed value of all property in said city subject to taxation for any purpose, the accomplishment of which is authorized by this act, which tax last named shall not be levied except upon a vote of two-thirds of the tax paying voters of said city at an election ordered and held for that purpose, which order shall state the amount of taxes to be levied and the purpose for which the same is to be used.

Sec. 119. The city council shall have power to levy and annually collect taxes known as licenses or occupation taxes upon professions, callings and other business carried on, and upon carriages, hacks, coaches, buggies, drays, carts, wagons, and all other vehicles used in the city for public use. That each and every person or firm engaged in the following professions callings and business among others shall be liable to pay such tax, but this enumeration shall not be considered to deprive the city council of the right and power to levy and collect other licenses or occupation taxes from other persons under the general authority herein granted. Every person or firm engaged in selling goods, wares and merchandise, liquors in quantities less than a quart, or in keeping any grogshop, tippling house, barroom, drinking saloon, or any place where spirituous, vinous or malt liquors, wine or beer are sold in quantities less than a quart; every person or firm keeping a billiard table, ball alley, nine or ten pin alley, or any similar game, or keeping a tavern, hotel or boarding house, restaurant, lunch stand or place of any kind where refreshments are sold; every person or firm keeping a livery stable, sale stable, feed stable or wagon yard; every person or firm selling goods, wares or merchandise at public auction, or pursuing the occupation of real estate agent, merchandise or cotton broker, commission merchant or broker of any kind, or hawker or peddler of any goods whatever; ever person or firm keeping a storage or warehouse, or intelligence office, or brewery or beer shop, distillery or fruit stand or engaged in compressing cotton; every insurance agent, every insurance company shall pay said tax, and every agent representing any such company who shall fail to pay said tax shall be subject to fine; every telegraph, telephone, electric light, gas or other company; every person or company keeping a lumber, wood or coal yard, or any place for the sale of such articles or building material of any kind, and all other persons, corporations or firms engaged in any profession, occupation, calling or business whatsoever, the taxing of which is not prohibited by the constitution of the State; any person or firm pursuing occupation, business, avocation or calling subject to license tax, shall pay on each, and no license tax shall extend to more than one establishment or include more than one avocation, occupation, business or calling.

Sec. 120. To authorize the the proper officer of this city to grant and issue license, and to direct the manner of issuing and registering the same, and fixing the fees and charges thereof. No license shall issue for

a longer period than one year and shall not be assignable, except by permission of the city assessor and collector who shall keep a correct record of all transfers of license of any kind.

Sec. 121. No property of any kind, church, school, public or otherwise in the City of Denison shall be exempt from any of the special taxes and assessments authorized by this charter for local improvement.

Sec. 122. The fiscal year of the City of Denison shall begin and end at twelve o'clock, noon, on the thirty-first day of March in each year. The council, at the first regular meeting in June of each year, or as soon thereafter as practicable shall examine the assessment rolls, and levy the annual tax for such year, but special taxes allowed by this charter may be levied, assessed, and collected at such time as the council in each case may provide.

Sec. 123. All persons or corporations owning or holding personal property or real estate in the City of Denison, on the first day of January of each year shall be liable for all municipal taxes levied thereon for the fiscal year the next following April.

Sec. 124. The personal property of all persons owing any taxes to the city of Denison, is hereby made liable for all of said taxes, whether the same be due upon personal or real property or both.

Sec. 125. The city council shall have full power to provide by ordinance for the prompt collection of taxes, assessed, levied and imposed under this charter, and are hereby authorized and to that end may and shall have full power and authority to sell or cause to be sold, all kinds of property, real and personal, and may and shall make all such rules and regulations, and ordain and pass all ordinances deemed necessary to the levying, laying, imposing, assessing and collecting of any taxes provided for in this charter.

Sec. 126. The city council shall have power to assess the property and shares of corporations, companies, banks and such other institutions as the same are now or may be assessed by the State law in such cases made and provided, and shall have full power to enforce the collection of such taxes in such manner as by said council may be deemed necessary.

Sec. 127. The city council shall have power by ordinance to regulate the manner and the mode of making out tax lists, inventories and appraisements of property therein, and to prescribe the oath that shall be administered to each person on rendition of his property, and prescribe how, when and where property shall be rendered, and prescribe the number and form of assessment rolls and fix the duties and define the powers of city assessor and collector and adopt such measures as the council may deem advisable to secure the assessment of all property within the city limits, and collect the tax thereon.

Sec. 128. Every person, partnership, corporation and company owning or controlling property within the limits of the city on or before the first day of June, after published notice, shall render to the city assessor and collector a full and complete inventory of taxable property possessed or controlled by him, her or them, within said limits on the first day of January last, verified as required by ordinance.

Sec. 129. The city assessor and collector shall at least ten days before the first day of January of each year, give public notice by advertisement in some newspaper published in the city that all persons owning or controlling as agent or otherwise, any personal property or real estate subject to municipal taxation, are required to render the same on or before the first day of June of each year.

Sec. 130. If the assessor and collector shall discover any real or per-

sonal property which was subject to taxation for any previous year, and which from any cause has escaped taxation for that year, he shall assess the same in a supplement to his next assessment roll at the same rate under which such property should have been assessed for such year, stating the year, and the taxes thereon shall be collected in the same manner as other assessments.

Sec. 131. The assessor and collector shall assess all property which for any cause has not been rendered, placing such valuation thereon as he may deem just. If the owners of such property are unknown, such assessment shall be in the name of unknown.

Sec. 132. When the assessor and collector and the party rendering property for taxation can not agree as to the value of property, the assessor and collector shall make a proper notice of such fact, and it shall be left to a board of appeals to decide its value, and such decision shall be final except as herein otherwise provided in this section. Said board to be composed of three disinterested freeholders in the city, to be appointed by the mayor and confirmed by the city council in January or as soon thereafter as practicable, and any vacancy occurring in said board shall be filled by appointment in like manner. The members of said board shall hold their office for one year, unless sooner removed for cause by the mayor and city council. A majority of the members of said board shall constitute a quorum for the transaction of business. Said board shall meet to hear the appeals from all persons aggrieved or who could not agree with the assessor and collector, on the first Monday in June, and shall hold sessions until all appeals have been heard. The assessor and collector shall give at least five days notice of such meeting by newspaper publication. The board shall have the right to diminish or increase the valuation of any property so as to make the same correspond with the valuation of other similar property, and shall order any error in assessment to be changed and corrected. The board shall be sworn to discharge their duties faithfully and impartially. They shall receive for their services such compensation as the city council may allow, not to exceed five dollars per day. The assessor and collector shall attend all meetings of the said board. No increase of valuation in property shall be made without notifying the owners thereof in such manner as the council may direct. Whenever any person is aggrieved or dissatisfied with the decision of the board in placing the valuation upon his or her property, such one may appeal to the city council in writing within one month from the final adjournment of said board, and not afterwards, and the city council shall then hear such appeal and the action of the city council thereon shall be final.

Sec. 133. A lien is hereby created on all property, personal and real, in favor of the city of Denison, for all taxes, ad valorem, occupation or otherwise. Said lien shall exist from January in each year until the taxes are paid. Said lien shall be prior to all other claims, and no gift, sale, assignment or transfer of any kind, or judicial writ of any kind can ever defeat such lien, but the city assessor and collector can pursue such property, and wherever found seize and sell enough thereof to satisfy such taxes.

Sec. 134. If any one against whom a personal tax is assessed, and which is due and unpaid, whether the same be delinquent or not, shall have removed out of the city, or shall be about to remove out of the city, or shall have removed or shall be about to remove his personal property out of the city, it shall be the duty of the assessor and collector to pro-

ceed at once and collect such taxes by seizure and sale of any personal property of such person to be found in the City of Denison or anywhere in the State of Texas.

Sec. 135. All taxes shall be payable at the city assessor and collector's office, and the city council shall have full power to sell or cause to be sold all personal or real property for taxes due, and shall make all rules and regulations necessary for such purpose.

Sec. 136. No demand for taxes shall be necessary, but it is hereby made the duty of every person or corporation subject to taxation to attend at the office of the assessor and collector some time between the second Monday in June and December thirty-first in each year and pay his or her taxes. If anyone fails to pay them before the thirty-first day of December the same shall be delinquent.

Sec. 137. The assessor and collector shall, by virtue of his tax rolls, have power and authority to seize and levy upon personal property and real estate and sell the same to satisfy delinquent taxes. When he seizes personal property for such purposes, he shall keep the same at the expense of the owner until the sale is made, and shall give notice of the time and place of sale of same by posting a written notice at the city hall door at least ten days before day of sale. He shall sell the same to the highest bidder for cash, for all taxes, costs and expenses in caring for said property and shall make an entry in the book of sales of the amount realized.

Sec. 138. Before sales of real estate are made, notice of the time and place of sale, together with as near as may be, a description of the property, shall be given by posting notice at the city hall in the city of Denison, also by publication in some newspaper of the city for at least three weeks, which shall contain a statement of the amount due on each particular piece of ground.

Sec. 139. And finally the city council shall have full power to do or cause to be done everything whatsoever necessary to enforce a prompt assessment and collection of all taxes and assessments provided for in this charter, and to make all regulations necessary for the sale of property for said taxes and assessments.

Sec. 140. The assessor and collector shall, when any real estate has been sold for taxes, make and execute a deed to the purchaser for the property sold, which deed shall be prima facie evidence of the following facts: First, that the lot or lots conveyed was or were subject to taxation and assessment at the time of such sale, and was taxed and assessed according to law. Second, that the taxes were not paid at any time before sale, and a lien therefor existed. And such deed shall be exclusive [conclusive] evidence of the following facts: First, that the real estate therein conveyed was advertised according to law, and second that the property was sold for taxes as stated in the deed.

Sec. 141. The sale of personal property for delinquent taxes shall convey with it an absolute title, and the owner shall have no right to redeem the same.

Sec. 142. The city shall have the right to become the purchaser of property at the tax sales, and the mayor shall attend such sales for such purpose.

Sec. 143. Whenever any real property is bid off to the city, or to any individual for delinquent taxes, the owner or attorney or his agent may redeem the same at any time within two years from date of sale in the

same manner as required by law for the redemption of property sold for state and county taxes.

Sec. 144. The provisions herein for collecting taxes shall not be construed to prevent the city from filing a suit in any court of competent jurisdiction for the collection of any taxes due on real estate as well as personal property and for the enforcement of levies for such taxes.

Sec. 145. The city council shall have power by ordinance to provide for and cause a general sewer system to be constructed, maintained and regulated in such manner and out of such material as the council may prescribe. Public sewers shall be established as the council may direct, and there may be extension of branches of sewers already constructed, or entirely new throughout as may be deemed expedient. The city council may, if necessary, levy a tax on all taxable property in the entire city to pay for the construction and repairs of such public sewers, which shall be called a "special sewer tax," and used solely for that purpose. No public sewer shall be run diagonally through private property without consent of the owner, when it is practicable, without injury to said sewer to construct it parallel with one of the exterior lines of such property. No public sewer shall be constructed through private property without consent of the owner, when it is practical to construct it along or through a street or public highway. District sewers may be established within the limits of districts defined by ordinance, and shall connect with other sewers or drains in such manner as the city council may prescribe. And the city council shall have power in the event that any owner of property within the sewer districts that are now established or that may be hereafter established by the city council, shall fail and refuse to make such sewer connection after having been duly notified to make such connection, then the city council may have such connection made and charge the expense of the same against the property, and the same shall become a tax and lien against the same and be collected in the same manner as are other special taxes and liens provided for in this charter, and all such persons who shall fail and refuse to make such connections may also be arrested and fined for each day such owner shall refuse and neglect to make such connections. The city council may compel all owners of property to make proper connections with such sewers and regulate and enforce by ordinance, the connection of all privies, sinks, etc., with public or district sewers. The city council shall also have power to provide by ordinance a general system of drainage or storm water sewers in such parts of the city as they may deem necessary, and regulate and enforce all rules and ordinances concerning the same. The city council shall have power to regulate and enforce all rules and ordinances in the plumbing of all dwelling houses and other buildings of whatsoever kind, within the limits of the city, and may require a bond from all plumbers or contractors carrying on any plumbing business, conditioned as the council may determine, and may prohibit any one from doing any plumbing work whatsoever until a license is obtained by such person from the proper officer of the city in such manner as the city council may provide. All plumbing shall be made subject to the inspection and approval of the proper officer of the city for that purpose. All connections with any main line of sewer or any lateral line thereof shall be done at the expense of the owner of the property in or from which such connections are made.

Sec. 146. That whenever the city council shall deem it necessary to take any private property in order to open, change or widen any public street, avenue or alley, or for the construction of water mains, or supply

reservoirs, or stand-pipes for water works, or sewers within or without the limits of said city, such property may be taken for such purpose by making just compensation to the owner thereof. If the amount of such compensation cannot be agreed upon, it shall be the duty of such city council to cause to be stated in writing the real estate or property sought to be taken, the name or the owner thereof, and his residence, if known, and file such statement with the county judge of the county in which said property is located. Any company or corporation chartered under the laws of this state for the purpose of constructing waterworks or furnishing water supply for said city, shall have the same right to condemn property necessary for the construction of supply reservoirs or standpipes for waterworks that is given said city under this act. Upon the filing of such statement it shall be the duty of said judge in term time or vacation to appoint three disinterested freeholders and qualified voters of the county as special commissioners to assess the damage to accrue to the owner by reason of such condemnation. The commissioners so appointed shall in their proceedings be governed and controlled by the law in force in reference to the condemnation of the right of way for railroad companies, and the assessment of damages therefor; the city, company or corporation occupying the position of the railroad company. And all laws in reference to applications for the condemnation for right of way of railroad companies, including the measure of damages, the right of appeal and the like, shall apply to an application by said city, company or corporation, under this act for the condemnation of property for the purpose of opening, changing or widening streets, avenues or alleys, or for the construction of water mains, sewers, supply reservoirs or standpipes, the city, company or corporation to occupy the position of the railroad company.

Sec. 147. The city council shall have power to require the filling up, draining and regulating of any lot or lots, grounds or yards, or other places in the city which shall be unwholesome, or have stagnant water or filth of any kind therein, or from any other cause, be in such condition as liable to produce disease; also to cause all premises to be inspected and cleansed; also to require the making, filling up, altering and repairing all sinks and privies, and direct the mode and material for constructing them in future. And said council shall have full power by ordinance to provide punishment for all persons failing or refusing to do any of such things, or permitting the premises occupied by them to be in a filthy or unhealthy state. In cases of filling up or draining any ground, if the owner thereof cannot be found, or for any cause fails or refuses to do said filling or draining, the city may have it done and tax the expense thereof up against the ground as a special tax and lien thereon, and collect the same as provided for the collection of any other special taxes or assessments in this act.

Sec. 148. That the city council shall have full power and authority to pass all ordinances and adopt all resolutions, rules and police regulations that may be necessary and proper to carry into effect and fully enforce all powers vested by this act, and in addition the city council shall have also power upon all questions not provided for in this act, to pass all ordinances and adopt all resolutions, rules and police regulations, not contrary to the constitution of the State of Texas, that may be necessary for the trade, commerce, health, order and good government of said city, and to enforce all such ordinances, rules and regulations, and punish their violations by fines and imprisonment, both or either, or by

work on the streets or other public works, as may be required by the judgment of the court, and for any fine imposed by the city court, execution may issue to collect such fine and cost in the same manner as from state courts. They shall be issued to the chief of police, who in levying on property and levying the same, shall have full power as the sheriff in executions from state courts in like cases.

Sec. 149. The city of Denison is hereby constituted a separate and independent school district and shall receive from the state such prorata of the available school fund as its scholastic population may entitle it to. The city public schools shall be under the management and control of a board of school trustees composed of one member from each ward who shall be elected by the legally qualified voters at the annual general elections as vacancies therefor occur, and shall hold their office for the term of two years; provided that at the election to be held on the first Tuesday in April, 1891, the trustees elected from the second, fourth and other even numbered wards shall hold their offices for one year. They shall serve without compensation. Their duty shall be to look after the interests of the public schools of the city; and to enact suitable regulations for their government; to elect and employ a superintendent, teachers, and janitors; to keep school buildings and grounds in repairs and keep property insured, purchase all supplies, make or have made all repairs, fences and walks. They shall elect a president of the board from among their number and have power to regulate their own meetings and proceedings. They shall audit all bills and accounts and approve the same. The city council shall provide means to pay for all repairs, supplies and furniture, necessary for said schools, and for keeping school houses and grounds in repair. The city council may annually make an appropriation sufficient to supplement the state fund so as to run the schools at least nine months in each year. In case the said city shall have decided, under the laws providing therefor, that a special tax shall be levied for the support of public free schools, the city council shall annually assess and levy such tax, or so much thereof as in the judgment of the trustees may be required to run the schools, not exceeding one-half of one per cent. by ordinance duly passed and approved in the same manner as is required in the assessment of taxes for general purposes in said city. The city treasurer shall be treasurer of the board of school trustees, and shall execute such bond as such treasurer as may be required by law, and such additional bond as the city council may by ordinance require. The city secretary shall be secretary of the board of school trustees. All bills or accounts approved by said board of trustees shall be paid by the treasurer on warrants issued by the city secretary and approved by the mayor. The city council may by ordinance provide for having the scholastic census taken annually in such manner as they may direct. All funds received from the state by the city as its pro rata of the available school fund and all funds appropriated by the city council out of its general revenue for the support and maintenance of schools, or raised by taxation for that purpose, or derived from any source of revenue set apart for the support and maintenance of schools, and all funds arising from any gift, devise or bequest made to the city for the support and maintenance of public schools, shall be under the control of the board of trustees. The city shall have power to receive, take and hold any property, real or personal, which has been or may be conveyed by gift, devise or bequest for the benefit of public education therein, and to lease or invest the same so as to derive a revenue therefrom, and

the control, management, leasing and investment of such property and of all funds arising therefrom, shall be vested in the board of school trustees. The duty of providing school buildings and furniture and grounds for the erection of same shall be performed by the city council, and all funds appropriated or raised by taxation or otherwise therefor shall be under their control. Said school trustees shall be freeholders and qualified electors in the wards from which they are elected.

Sec. 150. All city offices shall be kept at such places and be open such hours as may be prescribed by ordinance.

Sec. 151. All bonds, contracts or other instruments requiring the assent of the city, shall be signed by the mayor or acting mayor, and all legal process against the city shall be served upon the mayor or acting mayor.

Sec. 152. In addition to other modes of collection anywhere in this act provided, all tax due the city, whether general or special, assessments for improvements or otherwise, may be collected by an action of debt and lien on real estate foreclosed in any court having jurisdiction. The assessment roll of such taxes shall be taken as prima facie evidence of the statements made therein, and the city shall have equal right to become the purchaser at all sales of property for taxes due it under judgment or otherwise. It shall be the duty of the mayor to attend such sales to make such purchase if it be necessary.

Sec. 153. No action against the city shall be sustained in any case in which it might be liable for damages from injuries caused from streets, highways, ways, crossings, culverts, bridges, sidewalks, sewers, awnings or other things being out of repair from negligence of said city, unless the same shall have remained so for ten days after special notice in writing has been given to the mayor or city engineer.

Sec. 154. Before the city of Denison shall be liable for damages of any kind, the person injured, or some one in his behalf, shall give the mayor or city council notice in writing of such injury within thirty days after the same has been received, stating in such notice when, where and how the injury occurred, and the extent thereof, and the residence of the person so injured.

Sec. 155. It shall not be necessary in any action, suit or proceeding in which the city of Denison is a party, for any bond, undertaking or security to be executed in behalf of said city, but all such actions, suits, appeals or proceedings shall be conducted in the same manner as if such bond, undertaking or security had been given, and said city shall be just as liable as if they had been duly given and executed.

Sec. 156. Whenever, in the opinion of the city council any building, fence, shed, awning or structure of any kind, or part thereof is liable to fall down or endanger persons or property, the council may order the owner or the agent of the same, or occupant of the premises, to take down and remove the same within such time as they may direct, and may punish by fine or imprisonment, or either, all persons failing to do so. Said council shall have the additional power to remove the same at the expense of the city on account of the owner of the property and assess the expenses thereof, including condemnation proceedings, as a special tax against the land, and the same may be collected as other special taxes provided for in this charter: or by suit in any competent court of jurisdiction.

Sec. 157. In all judicial proceedings it shall be sufficient to plead any ordinance by caption or by the number of sections thereof wanted and

the caption, and it shall not be necessary to plead the entire ordinance or section. All printed ordinances or codes of ordinances, published by authority of the council, shall be admitted in evidence, and shall have the same force and effect as would the original ordinances. The city courts and all courts exercising appellate jurisdiction over its judgments shall take judicial notice of all valid ordinances of the City of Denison.

Sec. 158. The city council shall have full power and authority to grade, fill, raise, repair, macadamize, remacadamize, pave, repave, or otherwise improve any avenue, street or alley or any portion thereof in the city, to such extent, and out of such material, and under such regulations as said council may provide, whenever a majority of the aldermen present vote in favor of such improvement. All grading of streets and sidewalks shall be at the cost of the city. All repairing of streets shall be at the cost of the city unless herein otherwise provided. The word "repairing," as here used, shall apply only to small or ordinary defects in streets that have been put to grade, and paved or macadamized. All other improvements, such as macadamizing, paving or repaving, shall be done in the following manner: The property owners on each side of the street so improved shall pay two-thirds of the cost, and the city shall pay the remaining one-third, the same to be recovered pro rata according to the number of front or abutting feet respectively owned by them on such street; provided, that when any person, corporation or company owns or operates any street railroad or railroad of any kind on such street, avenue or alley, such person, corporation or company shall pay for paving or otherwise improving that part of the street between the rails of such road, and a space one foot in width on each side of said rails. The city shall pay for all street intersections so improved, except that portion occupied or used by said railroads, which must be paid as above provided by the owners or operators thereof. Property owners shall pay the entire cost of all curbing. The pro rata share of the cost of such improvements due from property owners and said railroads as above provided, together with the expense of collecting the same, shall be a special tax and lien against the lot or lots or blocks fronting or abutting upon the street improved, and against the road bed, ties, rails, fixtures, rights and franchises of such street or other railroads that may be operated thereon. The city council shall, by resolution, duly passed, designate the street or streets, avenues or alleys, or portions thereof, to be improved, the nature of the improvements to be made and material to be used. Whenever the council shall so determine upon such improvement they shall advertise for bids, giving the plans, specifications and the extent of the improvement. The work shall be let to the lowest responsible bidder in the discretion of the council, and with such bonds as the council may require. Said council shall levy a special tax on the property fronting or abutting on the streets so improved for the pro rata amounts due from property owners, and when street or other railroads are operated on said street, the council shall levy a special tax upon the road bed, ties, rails, fixtures, rights and franchises of such road for the pro rata share due from them for improving the space between the rails and the distance of one foot outside of said rails of such roads. Said tax shall be levied after said contract is let; shall become due and delinquent as the ordinance levying the same may specify; shall be a lien from the time of the levy and shall be used for the payment of said improvement. If said taxes be not paid as provided for by ordinance, their collection shall be enforced as the collection of other taxes by advertisement, sale

of the property rights and franchises levied upon; provided, no sale shall be made by virtue of any special lien herein created, until the end of six months after such work is completed. At such sales, the collector shall execute to the purchaser a deed similar to the one executed when property is sold for ad valorem taxes. Nothing in this section shall be construed so as to prohibit the owner or owners in front of whose property such street improvement shall have been ordered, from doing such work, and thus avoid such special assessment against his or her property; provided, however, such owner or owners will obligate themselves to make and complete such street improvement within the time and in accordance with the plans and specifications made by order of the city council.

Sec. 159. In all cases of special assessment for local improvements of any kind, against any property, persons or corporations whatsoever, and said assessments have failed to be valid, in whole or in part, because for want of form, insufficiency or non-compliance with the charter provision governing such assessment, the city council shall be and are hereby authorized to re-assess said special taxes or assessments and to enforce their collection in accordance with the charter provisions existing at the time the re-assessment is made.

Sec. 160. The city council shall fix and determine the nature and extent of sidewalk improvements and decide as to the kind of material to be used. The cost of constructing all sidewalks, including curbing and the keeping the same in repairs together with the cost of collection, (but not including the grading) shall be defrayed entirely by the property owners of the lots or blocks fronting on the sidewalks to be constructed, according to the number of feet frontage owned by each. Whenever the council, by resolution or otherwise orders the construction of any sidewalk and notice thereof has been served on the property owner, if in the city, or if out of the city, upon his agent, it shall be the duty of such property owner, or his agent, to at once construct such sidewalk as ordered by the council and under the supervision of the city engineer. If such property owner or his agent shall fail to construct such sidewalk within the time required by the council, then the city may have it constructed and the expense of the same, together with the cost of collection, shall be a charge against the owner and a special tax and lien upon the property until paid, and its collection may be enforced by sale of the property in the same manner as provided for the collection of the special tax and lien for street improvements in this act; or the same may be collected by a suit against the property owner and the lien upon the property foreclosed in any court having jurisdiction; provided, no action shall be had to enforce such special tax and lien until after the expiration of six months from the time such tax was levied. In addition hereto the city council shall have power by ordinance to punish persons who fail or refuse to build or repair sidewalks after having been duly notified.

Sec. 161. All writs, subpoenas or other process, issuing out of the city court shall run in the name of the City of Denison and may be executed and served by the chief of police or his deputies or policemen anywhere within Grayson county.

Sec. 162. All property, real and personal, belonging to the City of Denison, is hereby vested in the corporation created by this act, and the officers of said corporation now in office shall continue the same, as officers of the corporation hereby created, until superceded in conformity to the provisions hereof, but shall be governed by this act from and after it takes effect.

Sec. 163. This act shall not invalidate any legal action heretofore done by the city council of the City of Denison, or any of its officers, or impair any liabilities which may have been created by said corporation prior to the passage of this act, but such liability shall be and remain valid as against the corporation hereby created.

Sec. 164. That this act shall be deemed a public act and judicial notice shall be taken thereof in all courts and places, without the same having been read in evidence.

Sec. 165. The city council shall have the power to prevent the working of state convicts within the corporate limits of the city.

Sec. 166. In all cases whereby any of the provisions of this act, or by ordinances in pursuance thereof a person is required to obtain a license for any calling, occupation, business or avocation, and has, on complaint before the city court, been adjudged guilty of violating any rule, regulation or ordinance of the city in relation thereto, said court, in addition to the punishment to be imposed therefor, may suspend or revoke the license so granted.

Sec. 167. The city council shall have power to cause the ordinances of the city to be printed in code form and have the same rearranged and digested as often as to the council may deem [seem] advisable.

Sec. 168. The city council shall have power to cause telegraph, telephone and electric light companies to change the location of their poles; also to cause all erected poles not in use to be taken down and removed. If such companies shall fail to do such things after being notified, the city can have same done at the expense of such companies.

Sec. 169. The style of all ordinances shall be: "Be it Ordained by the City Council of the City of Denison;" but the same may be omitted from ordinances published in book or pamphlet form.

Sec. 170. All ordinances of a penal nature shall be published at least ten days in some newspaper in the City of Denison.

Sec. 171. All ordinances shall take effect from their passage, unless otherwise therein expressed.

Sec. 172. All ordinances of the city, when printed and published by authority of the city council, shall be admitted and received in evidence in all courts and places without any further proof whatever, and all ordinances thus printed in book or pamphlet form shall be presumed to have been printed by authority of the council and shall be prima facie evidence of that fact. Certified copies of ordinances shall also be received in evidence.

Sec. 173. All ordinances, resolutions, rules and regulations now in force in the City of Denison, and not in conflict herewith shall be and remain in force under this act, throughout the limits provided in Sec. 2 of this act, until altered, amended or repealed by the city council after this act takes effect.

Sec. 174. That every ordinance passed by the city council shall be enrolled by the secretary within the next succeeding five days, Sundays excepted, or as soon thereafter as practicable. It shall then be carefully compared with the original bill and all amendments, if any, by at least one member of the committee that may be charged with that duty by the city council. If errors exist they shall be corrected. If no errors exist or if found, then after their correction, the member making the comparison shall endorse on the margin the words: "Correctly enrolled." and give the date thereon and subscribe his name thereto. Whereupon the same shall be delivered immediately to the mayor for his consideration.

If the mayor approve the same it shall become a law. If he fail to approve or object to same within ten days, exclusive of the day of presentation and Sunday, should that intervene, the same shall become a law without his signature. But if in said time he shall veto the same, he shall present his written objection to the council by filing the same with the city secretary, and unless the council pass the ordinance over the mayor's veto by the majority hereinbefore provided, the same shall not become a law.

Sec. 175. The city council shall have the right to remit in whole or in part any fine or penalty belonging to the city, which may be imposed under any ordinance or resolution passed in pursuance of this act by a two-thirds vote of all the council present.

Sec. 176. No lien can ever exist against the public school buildings, public halls or public works of the city of Denison. All sub-contractors, material men, mechanics and laborers upon any of the public works of the city of Denison are hereby required to notify the city of all claims they may have on account of such work against said city, and when such notice has been given, the city shall retain an amount from any funds due the contractor sufficient to satisfy all such claims; provided, that such notice may be given at any time after such indebtedness becomes due, and before final settlement; and provided further, that no contractor or sub-contractor shall issue any time checks on any public works of said city.

Sec. 177. All works of improvement and public works of said city the cost of which shall exceed five hundred dollars, shall be let to the lowest responsible bidder, in the discretion of the city council, under such regulations as the council may prescribe.

Sec. 178. The council shall require good and sufficient bonds of all contractors, with at least two good and sufficient sureties who shall be residents of the State of Texas. No non-resident of the State shall ever be received as surety on any bond payable to the city of Denison, except such guaranty companies as may be satisfactory to the city council. When bondsmen are not residents of Grayson county, such proof of their solvency may be required as the council may deem necessary.

Sec. 179. All appropriations made or set apart for the payment of any interest or sinking fund or both, shall under no circumstances, ever be diverted to any other purpose.

Sec. 180. All questions arising in administering said city government, and not provided for in this act, shall be governed by the state law in such cases made and provided.

Sec. 181. That all property, actions, rights of action, claims and demands of every nature and kind whatever heretofore and now vested in said city of Denison, shall vest in and remain and inure to the said corporation created by this act.

Sec. 182. Whereas the municipal election of the city of Denison will be held early in the month of April next, and whereas it is desirable that said election be held under this charter, therefore an emergency and imperative public necessity exists, requiring that the constitutional rule requiring bills to be read on three several days to be suspended and it is so suspended, and that this act take effect and be in force from and after its passage and it is so enacted.

[Note.—The foregoing act originated in the senate and passed the same by a vote of 22 yeas and no nays; and passed the house by a vote of 71 yeas and no nays.]

[Note.—The foregoing act was presented to the governor of Texas for his approval on the 25th day of March, A. D. 1891, and was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the constitution, and thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

GALVESTON—AMENDMENT TO CHARTER OF.

Sec.

1. Amends sections 3, 14, 17, 20, 23, 28, 29, 41, 70, 78, 79, 95, 127, 128, 155, 156, 157.
- (8) Officers of the corporation.
- (5) Election of mayor and aldermen.
- (14) Duties of the mayor.
- (17) Recorder.
- (20) Duties and salary of city clerk.
- (23) Duties and salary of auditor.
- (28) City council—power to borrow money.
- (29) City council—finances.
- (41) Power to prevent encumbering of streets, etc.
- (70) To prevent breaches of the peace.
- (78) To pass and publish ordinances, etc., and impose penalties.
- (79) To levy and collect a school tax.
- (95) Duty of tax collector.
- (127) To raise, fill, grade, etc., any street, etc.
- (128) City engineer to estimate cost of street improvements and make report.
- (155) Officers to deliver all books, etc., to their successors.
- (156) Council may remove officers, when.

Sec.

- (157) Members of council and all officers exempt from jury service; fines against aldermen.
2. Adds sections 6a, 18a, 39a, 73b, 78a, 95a, 100a, 128a, 132c, 164a, 174 and 175.
 - (6a) Australian ballot system of voting.
 - (18a) Deputy chief of police.
 - (39a) Control of John Sealy hospital.
 - (72a) Council may compel property owners to connect closets, etc., with sewers.
 - (73b) Laying and removal of railway tracks.
 - (78a) Police department.
 - (95a) Taxes to bear 8 per cent interest.
 - (100a) Taxes may be collected by suit.
 - (128a) Council may establish grades for streets, etc.
 - (130b) No property exempt from special taxes for local improvements.
 - (132c) Power to issue bonds; interest; how funds are to be used.
 - (164a) City not liable for damages arising from want of repair, etc., of streets, etc.
 - (174) Commissioners of public works.
 - (175) City census.
3. Emergency clause.

CHAP. 14.—[H. B. No. 598.] An act to amend the charter of the city of Galveston, by amending sections 3, 5, 14, 17, 20, 23, 28, 29, 41, 70, 78, 79, 95, 127, 128, 155, 156 and 159 [157] thereof, and by adding thereto sections 6a, 18a, 39a, 72a, 73b, 78a, 95a, 100a, 128a, 130b, 132c, 164a, 174 and 175.

Section 1. Be it enacted by the Legislature of the State of Texas: That sections 3, 14, 17, 20, 23, 28, 29, 41, 70, 78, 79, 95, 127, 128, 155, 156 and 157 of the charter of the city of Galveston be and the same are hereby amended, so that they shall hereafter read as follows, to-wit:

Section 3. The municipal government of said city shall consist of a city council, composed of a mayor, four aldermen at large and one alderman from each ward. A majority of the aldermen elected shall constitute a quorum for the transaction of business, except at a call meeting or meetings for the imposition of taxes, when three-fourths of the aldermen elected shall be required unless herein otherwise specified. The officers of the corporation shall be a recorder, a treasurer, an assessor, a collector, a clerk, a chief of police, deputy chief of police, an engineer, (who shall also be superintendent of streets), an attorney, an auditor, a health physician, a harbor master, a city sexton and such other officers and agents as the council may direct; all of whom, except the clerk, chief of police and recorder, shall be nominated by the mayor on the second Monday after each biennial election, or as soon thereafter as possible, and each of whom shall be confirmed by a majority of the city council. The clerk, chief of police, and recorder shall be appointed by the mayor on the day above mentioned without requiring the confirmation of the city council. In the event that any nominee of the mayor is not confirmed by the city council, the mayor shall at an adjourned meeting nominate some other person for the office not filled at the regular day, and continue to make a nomination or renomination until some person shall be confirmed

by the city council. No person shall be nominated the third time for the same office except by consent of the city council, and the city council can only adjourn from day to day until all the city officers shall have been nominated and confirmed. Should the mayor fail or refuse to make the nomination or nominations or after having named four persons for any office, all of whom have been rejected by the city council, then in such event the city council shall have the right to elect by a vote of nine some person to the office yet unfilled. All said officers so nominated by the mayor and confirmed by the city council, or elected by the city council, and the city clerk, chief of police and recorder, appointed by the mayor, shall hold their offices until the second Monday after the next biennial election and until the appointment and qualification of their successors, unless removed by the mayor or by the city council under authority vested in it by this charter. The duties of the harbor master shall be such as have been or may be prescribed by the city council, and he shall receive for his services such compensation as the city council may determine, not to exceed fifteen hundred dollars per annum, and shall give bond for the faithful performance of his duties in the sum of five thousand dollars. The duties of the city sexton shall be such as the city council may prescribe. He shall receive for his services such compensation as the city council may determine not exceeding one thousand dollars per annum, and shall give bond in the sum of two thousand dollars for the faithful performance of his duties.

Section 5. At the biennial election provided for in this charter there shall be elected by the qualified voters of the city at large, voting by ballot, a mayor and four aldermen, no two of whom shall reside in the same ward, and who shall hold their office two years from the date of said election and until their successors shall be elected and qualified. And at the same time there shall be elected one alderman from each ward of the city by the qualified voters of such ward, who shall hold his office for two years from the date of said election, and until his successor shall be elected and qualified. Provided, no one shall vote for the election of alderman at any such election unless he shall have been a resident of such ward thirty days next preceding such election. Provided further that the person so elected shall be and remain a resident of the ward which he is elected to represent, and if he shall remove from the ward during the term of his office the same shall be declared vacated. The persons receiving the highest number of votes in the whole city for mayor and aldermen at large shall be declared elected; and the person receiving the highest number of votes cast for alderman in their respective wards, shall be declared elected. In case the person elected mayor shall refuse to accept the office, the city council, mayor, or acting mayor, shall order another election; and in case of a vacancy in the office of mayor, by death, resignation, removal or otherwise, it shall be filled for the remainder of the term by a new election, to be ordered by the city council, or acting mayor. And in case of vacancy in the office of alderman, by refusal to accept or qualify, or by death, resignation, removal or otherwise, the city council, mayor, or acting mayor, shall order a new election to fill the residue of the unexpired term; and all special elections shall be conducted in the same manner as is herein provided for the biennial election; provided, that in special elections, five days notice thereof shall be sufficient.

Section 14. The mayor shall preside over the meetings of the city council, but shall have no vote unless there is a tie, in which case he shall give

the casting vote. He shall have like power with a justice of the peace to administer oaths of office and also all oaths and affirmations, and to give certificates thereof. He shall be compensated for his services by a salary of three thousand dollars per annum, payable at stated periods, and shall receive such fees as may be allowed by law, which fees shall be paid into the city treasury. He shall, by and with the consent of the board of aldermen, have power to remove any officer holding office under the appointment of the mayor, and shall, by and with the consent of the board of aldermen, fill by appointment any vacancy occasioned by such removal. He shall have authority, in case of a riot, or any unlawful assembly, or with a view to preserve peace and good order in said city, to order and enforce the closing of any theatre, ballroom, grog shop, tipping house, barroom, or other place of resort, or public room or building, and may order the arrest of any person violating in his presence the laws of the state or any ordinance of the city; and he shall perform such other duties and possess and exercise such other power and authority as may be prescribed and conferred by the city council.

Section 17. The recorder of said city shall be the chief judicial magistrate thereof and as such shall hold a court within said city, by the name of the "Recorder's Court of the City of Galveston," which said court shall have jurisdiction and cognizance of all misdemeanors, breaches of the peace, infractions of the ordinances, and all other causes arising under the laws of said city, and shall be deemed always open for the trial of such cases. The said court shall have full power, authority and jurisdiction in all cases arising under the ordinances of said corporation, and over any breaches and violations thereof, and of any and all persons thus offending, and to try and determine all suits and actions and complaints charging a violation of any ordinance of said city; and may grant new trials on motion, in writing, showing sufficient cause and duly sworn to. The recorder may require of any person arrested under the provisions of this act, a bond for his or her good behavior, and to keep the peace, with two good and sufficient sureties; which bond shall be payable to the city of Galveston. He shall have full power and authority to issue subpoenas for witnesses, and to compel their attendance by process of attachment. He may punish all contempts by fine and imprisonment, or either; may issue subpoenas, writs of *capias*, warrants of arrest, search warrants, executions, and all other process known to the law which a justice of the peace of this state may lawfully issue; and all of said writs and process shall be issued, served and executed under the same form and in the same manner as the like process would be when issued by a justice of the peace, unless herein otherwise provided. He shall have full power and authority to administer official oaths, and all other oaths or affirmations, and give certificates thereof. The recorder shall be *ex-officio* justice of the peace, and he shall possess and execute, in criminal cases, all the powers and duties of such officer, and shall have the same authority and like powers with justices of the peace in the prevention and suppression of crime; provided that in no case shall he entertain jurisdiction in civil cases. The city council may determine what costs shall be charged in proceedings in and for all process issued in said court, and shall allow the judge thereof, for his services, a salary, payable at stated periods, eighteen hundred dollars per annum; and the recorder shall perform such other duties as may be prescribed by any ordinance of said corporation, that may properly and lawfully be required of said officer, as the judge of said court, and are not inconsistent with the laws

and constitution of this state; provided, that all moneys collected from fines, of whatever character, imposed by the recorder, shall be paid into the city treasury for the use of the city. The proceedings before said court shall be commenced by filing a complaint, specifying the charges made against the accused with reasonable certainty, which complaint shall be sworn to and shall not be quashed for any formal defects, if it substantially sets forth the nature of the alleged violation. All process of said court shall be run in the name of the city of Galveston. The city council may, if they deem it necessary, provide said court with one or more clerks and a seal; and such clerk or clerks, when appointed and qualified under any ordinance in that behalf, shall have full power and authority, the same as the recorder to administer all oaths and affirmations, and to give certificates thereof, and may issue subpoenas, writs of *capias*, executions, warrants of arrest and search warrants. Such clerk shall have the custody of all books and papers belonging to said court, and shall make out all process and writs, enter upon a docket all complaints before said court, and the recorder's judgment and sentence therein; and he shall receive for his services such salary as the city council may determine, not to exceed twelve hundred dollars per annum.

Section 20. It shall be the duty of the city clerk to attend every meeting of the city council and keep accurate minutes of the proceedings thereof in a book to be provided for that purpose; to engross and enroll all laws, resolutions and ordinances of the city council; to keep the corporate seal; to take charge of, preserve and keep in order all books, records, papers, documents and files of said council; to countersign all commissions issued to the city officers, and licenses issued by the mayor, and keep a record or register thereof; and to make out all notices required under the regulations or ordinances of the city. He shall draw all warrants on the treasurer, to be signed by the mayor and by the auditor, and countersign the same, and shall keep an accurate account thereof in a book to be provided for the purpose. He shall have power and authority to administer all oaths and affirmations. He shall also keep a register of all bonds and bills issued by the city, and all evidence of debts due and payable to it, noting the particulars thereof, and of all facts connected therewith as they occur. He shall carefully keep all contracts made by the city; and he shall do and perform all such other duties as may be required of him by any law, ordinance, resolution or order of the city council. He shall receive for his services a salary of eighteen hundred dollars per annum; and for the faithful discharge of his duties he shall give bond, with good security, to the city, for such sum as may be required by the city council, not less than two thousand dollars.

Section 23. It shall be the duty of the auditor to examine in detail all bills, accounts and claims against the city, and if found correct sign his name in approval, but if found incorrect, he shall return them to the appropriate committee or the city council with his objections thereto. He shall be the general accountant of the corporation, and shall keep in books regular accounts of the real, personal and mixed property of the city, of all receipts and disbursements of the city, and separately under proper heads, each cause of receipt and disbursement; and also accounts with each person, including officers, who have money transactions with the city, crediting amounts allowed by proper authority and specifying the particular transaction to which such entries apply. It shall also be his duty to examine the books of all officers of the city, and if they be

found incorrect to make a report of the same to the city council. It shall also be his duty to examine all warrants and countersign the same when an appropriation has been duly made to pay the same, by the city council, and he shall render such other services from time to time as the city council may direct. He shall receive for his services such compensation as the city council may determine, not to exceed eighteen hundred dollars per annum, and shall give bond for the faithful performance of his duties in the sum of ten thousand dollars.

Section 28. The city council shall not borrow for general or special purposes more than one hundred thousand dollars (\$100,000.00) in any one year; provided, that this restriction shall not be construed as a limitation upon the power of the council to create and maintain an indebtedness on the part of said city for all purposes, general and special, as may be authorized by other provisions in this charter.

Section 29. The city council shall have power to appropriate money to provide for the payment of debts and expenses of the city. In the month of February of each year it shall make a careful estimate of all probable revenues of the city for the ensuing year, and shall provide for the disbursement and expenditure of the same, and shall at the same time fix the salaries of all officers appointed or elected under this charter, except those whose compensation is fixed therein as follows:

First. It shall set apart and appropriate to the payment of interest upon outstanding bonds such amounts as shall have been prescribed by ordinance for that purpose; and shall also set apart and appropriate to the creation and maintenance of sinking funds, for the redemption of said bonds, such amounts as shall have been prescribed by ordinances for that purpose, which said sinking funds shall be invested in bonds of said city, in bonds of the State of Texas, or in bonds of the United States, as said council may from time to time determine.

Secondly. It shall reserve a fund of twenty-five thousand dollars to be used only in cases of extraordinary emergencies, which could not have been foreseen before their occurrence, but in no event to be used for the ordinary expenses of the city. And whenever there shall remain unexpended any portion of such reserve fund, the same shall constitute a part of such reserve fund for the next ensuing year.

Thirdly. It shall apportion the remainder of the estimated revenue to the several departments of the city government for its general expenses. Any member of the city council who shall knowingly vote for, or in any manner aid or promote the passage or adoption of any ordinance, resolution or other act of the city council increasing the appropriations for the expenses of the city beyond the estimate aforesaid, unless the actual revenue shall have exceeded such estimate, and in such event beyond such actual revenues, shall thereby vacate his office, and shall be deemed guilty of malfeasance in office, and, upon conviction thereof, shall be punished in the manner and to the extent provided in section thirty-one of this act.

Section 41. The city council shall have power to prevent the encumbering of the streets, alleys, sidewalks and public grounds with carriages, wagons, carts, hacks, buggies, or any vehicle whatever, or with bones, lumber, timber, firewood, posts, awnings, signs or any other substance or material whatever, or in any other manner whatever; to compel all persons to keep all weeds, filth and every kind of rubbish from the sidewalks, streets and gutters in front of the premises occupied by them; to require and compel the owners of property to fill up, grade, shell and otherwise

improve the sidewalks in front of and adjoining their property; to regulate and inspect the construction and erection of all buildings, and to cause unsafe and dangerous or dilapidated buildings to be made safe or be removed, and to prohibit the use of certain materials deemed unsafe; and to regulate and locate the erection of all poles in said city, and to cause the same at any time to be changed or removed, whether telegraph, telephone, electric light, railway or otherwise.

Section 70. To prevent all trespassers, breaches of the peace and good order, assaults, assaults and batteries, fighting, quarrelling, using abusive and insulting language, misdemeanors and disorderly conduct, and to punish all persons thus offending.

Section 78. The city council shall have power to pass, publish, amend, or repeal all ordinances, rules and police regulations not contrary to the constitution of this state, for the good government, peace and order of the city and the trade and commerce thereof that may be necessary or proper to carry into effect the powers vested by this act in the corporation, the city government, or any department or officer thereof; to enforce the observance of all such rules, ordinances and police regulations and to punish violations thereof by fines, penalties and imprisonment in the prison, workhouse or house of correction, or both, in the discretion of the court before which conviction may be had; but no fine or penalty shall exceed two hundred dollars, nor the imprisonment more than three months, for any offense, unless a larger fine and longer period of imprisonment is herein allowed; and for any fine, penalty and costs imposed by the recorder in the trial of any cause or complaint before him, execution may issue to collect such fines and costs, to be levied and executed in the same manner that executions are from the courts of criminal jurisdiction. The same shall be issued by the recorder or the clerk of the recorder's court, if there be such clerk, and under the seal of the court, if it have a seal, to the chief of police, who in levying on property and selling, shall have like power and authority as the sheriff of the county in executions issued from the district court; and the laws of the state, so far as applicable, shall apply to and be in full force and effect, as to the executions issued from the recorder's court, and the chief of police in executing the same. Any person upon whom any fine or penalty is imposed may be committed until the payment of the same with costs, and in default thereof may be imprisoned in the city prison, or the work house or house of correction or may be required to work on the streets or other public work of the city for such time and in such manner as may be provided by ordinance; provided such imprisonment shall not exceed three months unless a longer period is herein allowed.

Section 79. The city council shall have power within the city, by ordinance, to annually levy and collect for general purposes, and exclusive of the tax provided by general law for public school purposes, taxes not exceeding one and eight-tenths per cent on the assessed value of all real estate and personal property in the city not exempt from taxation by the constitution of the state.

Section 95. The collector of taxes immediately upon the delivery to him of the assessment rolls for any year, shall proceed to collect the taxes therein mentioned, and for that purpose shall give notice by publication for thirty days in the official journal of the city, to all persons owing taxes, that the taxes for that year are due, and to call immediately at his office and pay the same: which notice, when so published shall be sufficient notice to each and every tax payer who may owe taxes to the city that

his taxes are due, and also a sufficient demand upon him for their payment; provided, however, that such publication shall in no manner delay or suspend the action of the collector of taxes in collecting the taxes so assessed, and the interest thereon. The provisions of this section shall apply with like force to all special taxes and assessments for local improvements.

Section 127. The city council shall have full power and authority to raise, fill, grade, repair, pave, repave or otherwise improve any avenue, street, alley or sidewalk, or any portion thereof, in the corporate limits of said city to such extent and out of such material and under such regulations as said council may provide, whenever two-thirds of the aldermen elected vote in favor of such improvement; but no wood shall be used for paving unless the same shall be first thoroughly creosoted; provided that, except as hereinafter provided, the owners of the property fronting or abutting on such avenue or street as is so improved, shall pay two-thirds, and the city one-third of the cost thereof; provided also, that the owners of property abutting on any alley or sidewalk so improved shall pay the entire cost of such improvement; provided also, that when any person, corporation or company owns or operates any street railway or railway of any kind on such avenue or street, such person, corporation or company shall pay one-third of the cost of filling, raising, paving, repairing, or otherwise improving that part of the said avenue or street so improved, and the owners of fronting or abutting property the other two-thirds, and the said city shall be relieved of its pro rata so paid by the owners or operators of such roads; and provided also, that the city shall pay for all street intersections from lot to lot across the streets, either way, so improved, except when occupied or used by said railways, in which event one-third of the cost thereof must be paid, as above provided, by the owners or operators of said railways. Property owners shall pay the entire cost of all curbing. The costs of such improvement due from property owners and from the owners or operators of railways as above provided, together with the expense of collecting the same shall be a special tax and lien against the lot or lots or blocks fronting or abutting upon the thoroughfares or ways improved, and against the road bed, ties, rails, fixtures, rights and franchises of such street or other railways that may be operated or located thereon; and they shall be due and collected by the city whenever and as soon as such improvements are completed and accepted by the city council. All repairing of avenues, streets and alleys, shall be at the expense or cost of the city, but the word repairing as here used shall apply only to small or ordinary defects in avenues, streets or alleys that have been put to grade and paved or otherwise improved.

Section 128. That the city council, before beginning any such improvements, shall, for the purpose of acquiring the most reliable information practicable of the probable cost thereof, cause an estimate to be made of said probable cost, by the city engineer or by some other officer of the city, or by a committee of aldermen; and such officer or committee shall also report a full list of all fronting or abutting lots, with number and size of same, and number of block in which situated, and the name of the owners thereof; and such other information as may be required by the city council; and if it be a street or avenue, the improvement whereof is contemplated, and any person, corporation or company owns or operates a street railway, or railway of any kind thereon, such officer or committee shall also report in said list the name of such person, corporation or company; and if there be any lot or fractional lot, the owner whereof is not

known, the same shall be entered in said list as unknown; and said officer or committee shall enter in said list, opposite each lot or fractional lot lying and being on each side of the street, avenue or alley, the improvement whereof is contemplated, or if the improvement of a sidewalk is contemplated, then opposite each fronting or abutting lot or fractional lot, such portion or so much of the estimated cost or expense of such work or improvement on said avenue, street, alley or sidewalk as the owner of said lot or fractional lot is required, under the provisions of section 127 of this charter, to pay; and shall also enter into said list, opposite the name of the person, corporation or company owning or operating such railway or railways such portion of the cost or expense of such work [as] is under section 127 chargeable to said owner or operator. Upon consideration of said report of said officer or committee the council shall determine whether or not the said work or improvements shall be made, and shall proceed accordingly. When said work or improvement is ordered by the council and shall have been completed the council shall cause an accurate report of the cost thereof to be made by said officer or committee. As part of said report, said officer or committee shall present a list of the lots or fractional lots lying and being on each side of the street, avenue or alley so improved, or in case of a sidewalk, then of the lots or fractional lots fronting or abutting thereon, and upon such list of lots or fractional lots shall be entered opposite each lot or fractional lot, such portion or so much of the actual cost and expenses of such work or improvement on said avenue, street, alley or sidewalk abutting, fronting, adjoining or opposite such lot or fractional lot as the owner thereof is required, under the provisions of section 127 of this charter, to pay; and opposite the name of the person, corporation or company owning or operating the railway on the avenue or street, or portion thereof, so improved, the cost and expense chargeable to said person, corporation or company under the provisions of section 127 of this charter; and upon the acceptance and approval of said report and list by the city council, said amounts shall be imposed, levied and assessed by the said council on or against said lots or fractional lots and on or against the road bed, ties, rails, fixtures, rights and franchises of said railways respectively, and shall be collected by the collector, and shall be a lien upon the property until paid.

Section 155. Whenever any person shall be removed from any office, or the term for which he was elected or appointed has expired, or he has resigned or ceased to act in such official capacity, such person shall deliver over to his successor all books, papers and effects in any way appertaining to his office. Every person violating this provision shall be deemed guilty of an offense, and shall, on conviction thereof before the recorder, be fined in a sum not exceeding five hundred dollars.

Section 156. The city council shall have power to remove any officer for incompetency, corruption, malconduct, malfeasance or nonfeasance in office, after due notice and an opportunity to be heard in his defense, under the same rules herein provided for the trial and removal of the mayor or any alderman; provided, however, that by the word "officer," as used in this section is meant only those officers who are especially enumerated in section 3 of this charter.

Section 157. The members of the city council and all officers of the corporation, including members of the police force, shall be exempt from jury service during their terms of office. Each alderman shall be fined seven dollars for any meeting which he fails to attend unless on account of his own sickness or is excused by the council, or is absent with leave

previously granted; and any member of the city council remaining absent from three regular meetings consecutively, without first having obtained leave of absence at a regular meeting, unless such absence is occasioned by his own sickness, shall be deemed to have vacated his office, and the mayor shall cause the vacancy to be filled in accordance with the charter.

Sec. 2. That the charter of the City of Galveston be amended by adding thereto sections 6a, 18a, 39a, 73b, 78a, 95a, 100a, 128a, 130b, 132c, 164a, 169a, 174 and 175, and as follows, to-wit:

Section 6a. The city council shall have power to determine that elections held by virtue of this charter may be under and in accordance with the system of voting known as the Australian Ballot System and may provide rules and regulations therefor.

Section 18a. The deputy chief of police, in the absence of the chief of police, shall conduct the duties of his office with full powers, and the deputy chief of police shall, at all times be subject to the direction and orders of the chief of police, and shall perform all other such duties as may be prescribed by ordinance. And the salary for his services to be prescribed by the city council, not to exceed fifteen hundred dollars per annum.

Section 39a. The hospital in said city known as the John Sealy Hospital shall, so long as the same is under lease from the state to the city, be under the exclusive control of a board of managers to be known as the "John Sealy Hospital Board," and to consist of five members to be chosen or appointed, as hereinafter provided, every two years within thirty days after the installation of each new board of the city council. Two of the members of the said hospital board shall be selected from the city council of said city, one of which two shall be chairman of the city council's committee on hospital and health, and the other the chairman of the committee on "finance and revenues," two to be named or selected by the board of regents of the University of the State; and the fifth member to be named or selected by these four; provided, however, that all members of said John Sealy Hospital board shall be resident citizens and tax payers of the city of Galveston; and provided further, that in case a majority of the said four cannot agree upon the fifth member, then such fifth member shall be named or designated by the mayor of said city. The said John Sealy Hospital board shall have the exclusive right to appoint the house surgeon, steward, matron, nurses and such other subordinate officers and employees of said hospital as may be required for properly carrying on or conducting the same; to designate the duties of such subordinate officers and employees; to determine their salaries and compensation, and to change the same; and to suspend or discharge them; provided always, that the said hospital board shall, in no event exceed in any one year in their expenditures the annual allowance set apart by the city council for defraying the expenses thereof; and the said council, as long as said hospital is under lease from the state to the said city, or is in any way responsible for such expenses, shall have the exclusive right to determine and regulate the amount to be expended in carrying on or conducting the said hospital. The said John Sealy hospital board shall have the exclusive right to prescribe rules and regulations for the management and conduct of the said hospital, and shall have the exclusive management and control of its internal government. The board of health of the City of Galveston, acting through the health physician of said city, shall have the sole and exclusive right and au-

thority whilst the city is such lessee, to determine and designate what person or persons may be admitted as charity patients into said hospital. Patients who pay for hospital services rendered them may, however, be received into said hospital under rules and regulations to be prescribed by said hospital board; provided always, that applications for admittance into said hospital for treatment as charity patients, with written permits to that effect, signed by the health physician of the City of Galveston, shall have precedence over all others applying for admittance therein. The financial affairs of said hospital, so long as the City of Galveston is such lessee, shall be under the exclusive control of the city council of said city, and the said hospital board shall furnish to the said council at its regular meeting in February of each year during said lease, an itemized statement or estimate of the various officers and their assistants, and the nurses and other employes, and their salaries and wages, and the nature and amount of all other expenses, necessary to the proper management and maintenance of said hospital for the twelve months next thereafter ensuing, which statement or estimate shall be subject to revision, alteration, modification and reduction by the said city council; and no expense or liability not provided for in said estimate or statement as finally approved and adopted by said council shall be incurred by the said hospital board, or any subordinate in the management of said hospital, unless the approval of the city council in that the regard shall have first been obtained. All moneys or revenues arising from hospital service in said institution during such lease, shall as collected be paid into the city treasury as a part of the revenues of said city. The said hospital board shall keep and preserve or cause to be kept and preserved, in well bound books, accurate minutes of its meetings and proceedings; also in like manner, a roster of all visiting physicians and surgeons, and of all officers, employes and internes of said hospital, and in what capacity serving, with dates of entering service and of discharge therefrom, length of time employed, and salaries and wages allowed; and also a hospital register, showing name, age, sex, nationality, and residence of each and every person admitted as a patient, disease at the date of admittance or supervening while in hospital, dates of admittance and dates of discharge or death of all patients admitted in said hospital for treatment, the authority for the admittance of each patient, and the rate charged each and every pay patient. And the house surgeon or other officer in charge of said hospital shall keep, or cause to be kept, in well bound books correct and accurate accounts of all receipts and disbursements for account of said hospital, and shall render, under oath, to the city council of said city, through the said hospital board, monthly reports or statements showing, for the month then ending, all receipts and disbursements, with proper vouchers, also the number and names of all patients received, the respective dates of admittance and whether charity patients or pay patients; the number and the name of all patients that have been discharged or that have died during the month; the disposition made of the bodies of all patients who have died during the month; and the names of all officers and employes, in what capacity serving, and at what salary or wages, respectively. The medical staff of the John Sealy hospital shall be constituted of the house surgeon, to be selected as above provided, and during said lease, compensated by the city; of the visiting physicians and surgeons, to be designated by the board of regents of the University of the State of Texas, from the faculty of the medical department thereof, but who are to receive no

compensation from the city for their services; and of two or more students from the medical branch of said University, to serve as internes and to be selected by the said board of regents; the number and duties of the internes to be determined by said hospital board, and said internes to receive for their services, only their board and lodging in said hospital. The officers in charge of said hospital shall, at all times, admit for the purposes of inspection, the mayor or any member of the board of health of said city charged with the duty of visiting or inspecting said hospital; and in like manner the regents of the said University or their authorized agents. All the members of said hospital board, as also the house surgeon shall, before entering upon their respective duties, take the oath of office prescribed by the charter for the officials of the city of Galveston.

Section 72a. The city council shall have power to require all property owners whose property may be located upon or near any street or alley along which may extend any sewer or system of sewerage that the city may construct, to connect with such sewer or system of sewerage all water closets, sinks, and drains located upon their respective properties or premises, so that their contents may be made to empty into such sewer or system of sewerage.

Section 73b. The city council shall have power to require, on due notice, all railway companies owning tracks within the city limits which may have been or may hereafter be abandoned by them, by nonuser, to remove such tracks, and to restore, at their own expense, the street or way upon which such abandoned track is located, to proper grade. No railway track shall ever be laid nor any railway of any kind whatever ever allowed to be operated on the Strand, or Avenue B, and on Tremont or 23rd street; and no more than two railway tracks shall ever be placed on Broadway. No street railway company operating a street railway in this city shall charge, or receive from any passenger more than five cents for one continuous carriage in the same direction; but where tickets or other evidences of the right to ride on any such street railway are issued, the same shall be sold at the rate of not less than six tickets for twenty-five cents. The city council shall have the power at any time to change the location or remove the railway track or tracks on any street or avenue from one portion of the street to another, and to enforce such change of location in mode to be prescribed by ordinance.

Section 78a. The city council shall have full power and authority to establish and maintain a city police or police department, composed of the chief of police, who shall be appointed as heretofore provided, the clerks of the recorder's court, two or more sergeants and such number of patrolmen or policemen as the city council may from time to time direct; to prescribe the duties of policemen; and to make such rules and regulations not inconsistent with the laws of the state, for the government of the police department, as to the said council may seem meet and proper. At the first regular meeting of the new board of aldermen after each biennial election, or as soon thereafter as may be, the mayor shall select and name, from amongst the members thereof, at least two aldermen who, together with himself shall constitute a commission to be known and designated as "police commission," of which commission the mayor shall be chairman, and which is hereby invested with exclusive jurisdiction to hear and determine any and all charges against any member of the police department, except the chief of police, for incompetency or inefficiency, for corruption, malfeasance or nonfeasance in office, for violation of any

of the rules or regulations prescribed for the government of the department, or for any other conduct unbecoming a member of the police force. Policemen shall be appointed for two years, subject to suspension or removal for cause, after a hearing, by the commission, which is hereby invested with exclusive jurisdiction in the premises; provided however, that the chief of police shall have the power temporarily to suspend any subordinate officer or any other member of the police force, for reasons satisfactory to said chief of police, and to appoint some person to discharge the duties of such suspended officer or member, until the grounds of such suspension can be inquired into by the police commission; and it shall be the duty of the chief of police, in all such cases, to file with said commission, within five days after such suspension, his reasons therefor, and to notify the accused thereof. Every policeman shall be required to take the oath prescribed by the constitution of the state, and to give bond, with sureties, to be approved by the mayor, in the sum of five hundred dollars, payable to the city of Galveston, and conditioned for the faithful discharge of his duties. All lawful rules and regulations prescribed by the city council for the government of the police department shall be obeyed by the police force and its officers on pain of dismissal, or such lighter punishment, either by suspension, reduction or forfeiture of pay or otherwise, as the commission may adjudge; provided, however, that all charges or complaints against the chief of police shall be heard and determined by the city council as provided in section 150, 151, 152 and 153 of this charter for the trial of the mayor or any alderman. The commission shall have power to administer oaths, to summon and compel the attendance of witnesses before them, and to examine such witnesses upon any matter where it may be necessary to the discharge of their duties; and they shall report to the city council at its first regular meeting in each month, the expenses incurred by their department, and the suspensions and removals therein during the preceding month. The clerk of the recorder's court shall discharge the duties of secretary of the police commission.

Section 95a. All taxes, general and special, including taxes for public schools, and assessments for local improvements, shall bear interest from the respective dates at which they may, by ordinance, be made payable, at the rate of eight per cent per annum.

Section 100a. In addition to other modes of collection in this charter provided, all taxes due the city, whether general or special, assessments for nuisances, improvements of streets, alleys or sidewalks or otherwise, may be collected by suit, and liens on real estate foreclosed in any court having jurisdiction; the assessment rolls of all taxes shall be taken as prima facie evidence of the statements made therein, and the city shall have equal right to become the purchaser at all sales of property under judgment or otherwise, for taxes due it.

Section 128a. The city council shall have power to fix or establish the grade on all streets and alleys, including sidewalks within the city limits; provided however, that on Broadway or Avenue J, the grade shall not be less than eight feet $\frac{1}{2}$ exclusive of paving above mean low tide; and provided further, that where the ground on said avenue is higher than eight feet $\frac{1}{2}$, then such natural grade shall be observed and retained.

Section 130b. No property of any kind, church, school, public or otherwise, in the City of Galveston, shall be exempt from any of the special taxes and assessments authorized by this charter for local improvements.

Section 132c. The city shall have power to issue bonds to the amount of one million, two hundred and forty thousand dollars, of the denomination of one hundred dollars, or any multiple thereof, payable forty years after date of their issue, and bearing interest payable semi-annually at a rate not exceeding five per cent per annum: said bonds to be sold for cash, at not less than par, and the proceeds thereof to be used and expended as follows:

Two hundred thousand dollars shall be used in defraying the city's portion of the cost of filling, grading and paving its streets, as elsewhere provided for in this charter; provided, that not more than one hundred thousand dollars shall be expended on such work by the city in any one year from this fund, or from the proceeds of the issue of bonds authorized by this section.

Forty thousand dollars shall be used and expended for filling streets and such property as the city may own, and which the city council may designate to be filled or raised; the expenditures out of this fund, not to exceed in any one year twenty thousand dollars.

Fifty thousand dollars shall be employed and expended in the erection of public school houses in said city, under the direction and upon the requisition of its board of school trustees; provided however, that the interest and the sinking fund necessary to meet the fifty thousand dollars of the bonds so appropriated shall be annually reserved out of the taxes levied and collected for school purposes until the sinking fund thus reserved shall be sufficient to pay the principal and interest of said bonds.

Fifty thousand dollars shall be and constitute a special fund to be used and expended by the city council in abating nuisances on private property, and for filling, grading and paving, or otherwise improving alleys and sidewalks in said city, in all cases where the parties chargeable with the abatement of such nuisances or with such filling, grading and paving, or other improvement shall fail or refuse to abate the one or perform the other; and any expenditures from this fund shall be a lien and recoverable by assessment on the property in respect of and concerning which they shall be made, and when so recovered, they shall be and remain a portion of such special fund.

Nine hundred thousand dollars shall be employed and expended by the city council for and in the procurement of an adequate supply of fresh water for said city, and in and for the erection of an efficient system of sewerage and drainage, including crematories for garbage, if found desirable, and for the city's share of the cost of filling, grading and paving its streets, under the following provisions: The city council shall on or before January 1st, 1892, apportion said nine hundred thousand dollars as follows: First, so much of said sum as to said council may appear necessary, shall be set aside for the procurement of said water supply, to be owned by the city or furnished under contracts that may be entered into by the city with responsible parties. Secondly, so much of the remainder of said sum, if any, as to the council may appear necessary, shall be set aside for sewerage and drainage purposes, aforesaid; and, Thirdly, the residue, if any, after a water supply and system of sewerage and drainage shall have been provided for as above contemplated, shall be set aside to defray the city's share of the cost of filling, grading and paving its streets, when the special fund of two hundred thousand dollars aforesaid shall have been expended. A fund shall be provided to pay the interest and create a sinking fund to redeem said bonds, which fund shall not be diverted or drawn upon for any other purpose, and the city

treasurer shall honor no drafts on said fund, except to pay the interest upon or to redeem the bonds for which it was provided. Said bonds shall be signed by the mayor and countersigned by the city clerk, and shall be payable at such places as may be fixed by ordinance of the city council. It shall be the duty of the mayor, when such bonds are issued, to forward the same to the comptroller of state, whose duty it shall be to register them in a book kept for the purpose and to endorse on each bond registered, his certificate of registration. The indebtedness provided for in this section shall not be limited or governed by the provisions or limitations contained in sections 28, 132, 132a or 132b, of this charter.

Section 164a. The said city shall not be liable in damages at the suit of any person for injuries either to person or property arising from the unsafe condition or want of repair of any alley, street, way, bridge, crossing or sidewalk.

Section 174. There shall be and is hereby created in and for the city a board, called the commissioners of public works, to consist of five members, one of whom shall be the city engineer, and four, each of whom shall be a freeholder and qualified voter in the City of Galveston, and not less than thirty years of age, to be appointed by the mayor and confirmed by the city council, as soon as practicable after the passage of this act, and biennially thereafter on the first Monday in July after the election for mayor and aldermen. Two of the appointed commissioners shall be appointed to serve for the term of two years and two for the term of four years, but after the expiration of the first term of two years the other appointment shall be for the term of four years, in order that biennially two commissioners may be appointed; and they shall hold their office until their successors are duly elected and qualified. Said commissioners, except the city engineer, who is provided for in the regular salary list of city officers, shall be entitled to receive such salary as the city council may determine, not to exceed three hundred dollars each per annum payable quarterly. The mayor, with the approval of the city council, shall have the power to remove any commissioner for cause, and to fill any vacancy occurring in said office, either from death, resignation, removal from office, removal from the city, or other cause. The mayor shall issue commissions to the persons appointed as commissioners, designating the term for which they are severally appointed. Said commissioners shall take the oath of office required of other officers of said city and give bond for the faithful performance of their duties, payable to the City of Galveston, in the sum of ten thousand dollars, to be approved by the committee on finance and revenue of the city council: provided, that the city engineer shall not be held to give other than the bond of ten thousand dollars required from him as city engineer. Upon the appointment and qualification of said commissioners, they shall organize by the election of a president from their own number. The city clerk shall be the secretary for said board and shall keep a record of its proceedings, and a majority of the commissioners shall constitute a quorum for the transaction of business. No commissioner shall absent himself from any meeting except for good cause, and an excuse for non-attendance shall be entered in the minute book of said board of commissioners, and if at any time more than two commissioners be absent from the city, the mayor, if he believe it to be necessary, shall have the authority, with the consent of the city council, temporarily to appoint a new member on said board until the return of one of the absent commissioners,

who must qualify, however, in the same manner as the regularly elected commissioners. The board of commissioners of public works shall have charge of the execution of all public works of a permanent character, such as filling, grading, paving, repairing or otherwise improving any street, alley, avenue or sidewalk; the abating of any nuisance; the providing for establishing or building of sewers or a system of sewerage; the erection of public buildings and garbage crematories; the laying out, improving and beautifying of esplanades, squares and public grounds, and all other improvements and works of a public and permanent nature, except such as are required or authorized to be done through the commissioners of water works, and the school trustees, and said board shall have charge of all such work as shall be more clearly defined by the ordinances of the city council. The city council shall, however, before any such public work is undertaken by the commissioners, designate the same, and the extent thereof by a proper resolution, and for a better understanding of the work to be undertaken, shall require of said board of commissioners an approximate estimate thereof. After the city council has duly adopted by resolution, what work or improvement shall be undertaken, and has stipulated its extent, it shall be the duty of the commissioners to advertise for the work according to plans and specifications, to be made and adopted by them, and shall let the work by contract, except where the city council may, upon recommendation from said board, authorize the work to be done by days work; and all contracts shall be subject to approval by the city council, and shall be signed by the mayor and countersigned by the city clerk, before the same shall take effect; any contract made under this act shall be paid for by the city with the proceeds of the five per cent forty-year bonds issued for the particular purpose, and by funds set apart for that purpose by the city council in its annual budget; provided, that in all contracts for public works or improvements, of whatever kind, in which the city is interested, labor in and about the construction of such work, contracts or improvements shall be rated and paid for at not less than two dollars per day of nine hours each. The board shall keep a record of their proceedings in a well bound book kept for that purpose, and they shall report monthly, to the city council, the progress of all works under their charge, and make recommendations as to what further work should or could be undertaken, its nature and extent, and shall approve all claims for work or works under their charge, entitled to payment, which said claims shall be duly audited and approved by the finance committee before payment. No member of the board of commissioners of public works shall have any other employment or office under the city government while he is a member of said board, unless herein otherwise provided; and no member of said board shall be directly or indirectly interested in any work, business or contract, the expense, price or consideration of which is paid from the city treasury, or by an assessment levied by an ordinance or resolution of the city council, nor be the surety of any having a contract, work or business with said city, for the performance of which security may be required. Any member of said board violating the provisions hereof shall forfeit his position on said board, and shall thereafter be ineligible to any office in or under the city government. The said commissioners shall be deemed and taken as officers of the city and liable to the provisions of article 250 of the Penal Code.

Section 175. The city council shall have power to provide for taking

the enumeration of the inhabitants of the city, in the year 1891, and every five years thereafter.

Sec. 3. The near approach of the close of the session, and the fact that it is desirable that this act go into effect as soon as possible, creates an emergency and imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and it is so suspended, and this act take effect from and after its passage.

[Note.—The foregoing act originated in the House and passed the same by a vote of 73 yeas and no nays; and passed the Senate by a vote of 26 yeas and no nays.]

[Note.—The foregoing act was presented to the governor of Texas for his approval on the thirty-first day of March, A. D. 1891, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the constitution, and thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

GALVESTON—AMENDMENT TO CHARTER OF.

Sec.

1. Amends section 174 of charter.

(174) Board of commissioners of public works constituted; qualifications; terms of office; duties.

3. [2] Emergency clause.

CHAP. 15.—[H. B. No. 639.] An act to be entitled "an act to amend section 174 of an act entitled an act to amend the charter of the city of Galveston, by amending sections 3, 5, 14, 17, 20, 23, 28, 29, 41, 70, 78, 79, 95, 127, 128, 155, 156, 159 thereof, and by adding thereto sections 6a, 18a, 39a, 72a, 73b, 78a, 95a, 100a, 128a, 130b, 132c, 164a, 174 and 175, passed at the present session of the Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas: That section 174 be amended so that the same shall hereafter read:

Sec. 174. There shall be and is hereby created in and for the city a board, called the commissioners of public works, to consist of five members, one of whom shall be the city engineer, and four, each of whom shall be a freeholder and qualified voter in the city of Galveston, and not less than thirty years of age, to be appointed by the mayor and confirmed by the city council, as soon as practicable after the passage of this act, and biennially thereafter on the first Monday in July after the election for mayor and aldermen who shall hold their office for the term of two years, and until their successors are duly elected and qualified. Said commissioners, except the city engineer, who is provided for in the regular salary list of city officers, shall be entitled to receive such salary as the city council may determine, not to exceed three hundred dollars each per annum, payable quarterly. The mayor, with the approval of the city council, shall have the power to remove any commissioner for cause, and to fill any vacancy occurring in said office, either from death, resignation, removal from office, removal from the city, or other cause. The mayor shall issue commissions to the persons appointed as commissioners, designating the term for which they are severally appointed. Said commissioners shall take the oath of office required of other officers of said city and give bond for the faithful performance of their duties, payable to the city of Galveston, in the sum of ten thousand dollars, to be approved by the committee on finance and revenue of the city council: pro-

vided, that the city engineer shall not be held to give other than the bond of ten thousand dollars required from him as city engineer. Upon the appointment and qualification of said commissioners, they shall organize by the election of a president from their own number. The city clerk shall be the secretary for said board and shall keep a record of its proceedings, and a majority of the commissioners shall constitute a quorum for the transaction of business. No commissioner shall absent himself from any meeting except for good cause and an excuse for non-attendance shall be entered in the minute book of said board of commissioners and if at any time more than two commissioners be absent from the city, the mayor, if he believes it to be necessary, shall have the authority, with the consent of the city council temporarily to appoint a new member on said board, until the return of one of the absent commissioners, who must qualify however, in the same manner as the regularly elected commissioners. The board of commissioners of public works shall have charge of the execution of all public works of a permanent character, such as filling, grading, paving, repairing or otherwise improving any street, alley, avenue or sidewalks; the abating of any nuisance; the providing for establishment or building of sewers or a system of sewerage; the erection of public buildings and garbage crematories; the laying out, improving and beautifying of esplanades, squares and public grounds, and all other improvements and works of public and permanent nature, except such as are required or authorized to be done through the commissioners of water works and the school trustees, and said board shall have charge of all such work as shall be more clearly defined by the ordinance of the city council. The city council shall, however, before any such work is undertaken by the commissioners, designate the same and the extent thereof, by a proper resolution and for a better understanding of the work to be undertaken, shall require of said board of commissioners an approximate estimate thereof. After the city council has duly adopted by resolution what work or improvement shall be undertaken, and has stipulated its extent, it shall be the duty of the commissioners to advertise for the work according to plans and specifications, to be made and adopted by them, and shall let the work by contract, except where the city council may, upon recommendation from said board, authorize the work to be done by days work; and all contracts shall be subject to approval by the city council, and shall be signed by the mayor and countersigned by the city clerk, before the same shall take effect. Any contract made under this act shall be paid by the city with the proceeds of the five per cent forty-year bonds issued for the particular purpose, and by funds set apart for that purpose by the city council in its annual budget; provided, that in all contracts for public works or improvements, of whatever kind, in which the city is interested, labor in [and] about the construction of such work, contracts or improvements shall be rated and paid for at not less than two dollars per day of nine hours each. The board shall keep a record of their proceedings in a well bound book kept for that purpose, and they shall report monthly to the city council the progress of all works under their charge, and make recommendations as to what further work should or could be undertaken, its nature and extent, and shall approve all claims for work or works under their charge, entitled to payment, which said claims shall be duly audited and approved by the finance committee before payment. No member of the board of commissioners of public works shall have any other employment or office under the city government while he is a member of said board unless

herein otherwise provided; and no member of the said board shall be directly or indirectly interested in any work, business or contract, the expense, price or consideration of which is paid from the city treasury, or by an assessment levied by an ordinance or resolution of the city council nor be the surety of any person having a contract, work or business with said city, for the performance of which security may be required. Any member of the said board violating the provisions hereof shall forfeit his position on said board, and shall thereafter be ineligible to any office in or under the city government. The said commissioners shall be deemed and taken as officers of the city, and liable to the provisions of article 250 of the Penal Code.

Sec. 3. The near approach of the close of the session, and the fact that it is desirable that this act go into effect as soon as possible, creates an emergency and imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and it is so suspended, and this act take effect from and after passage, and it is so enacted.

[Note.—The foregoing act originated in the House and passed the same by a vote of 79 yeas and no nays; and passed the Senate by a vote of 24 yeas and no nays.]
Approved April 13, 1891.

HOUSTON—AMENDMENT TO CHARTER OF.

Sec.

1. All acts amendatory of act of January 23, 1874, declared valid, and amends following sections:
 - (14) Officers to be elected and appointed.
 - (15) Recorder; jurisdiction, powers, duties.
 - (16) City secretary and city attorney; duties of.
 - (23a) Sidewalks, sewers, improvements, etc., under control of council.
 - (23b) Street improvements, etc., how made.
 - (23c) Assessments for such improvements.
 - (23d) Notice to property owners.
 - (23e) Division of assessments into installments, and payment of same.
 - (23f) Improvement certificates to be issued.

Sec.

- (23g) Street improvement bonds.
- (23h) Board of public works—powers and duties of.
- (23i) Work of sanitary character—cost of, etc.
- (23j) City council may condemn land for streets, etc.
- (23k) Relevy of assessments, when to be made.
- (23l) Purchaser at tax sale has lien on the property when he fails to acquire title.
- (23m) Power to enforce observance of ordinances. General powers of city council.
- (23n) Building permits.
- (23o) Message of the mayor; appropriations.
2. Repealing and emergency clause.

CHAP. 16.—[S. B. No. 339.] An Act to amend an act entitled "An Act amendatory of and supplemental to an act entitled an act to consolidate in one act and amend the several acts incorporating the City of Houston, in Harris county," approved January 23rd, 1874, and all acts amendatory thereof, and to validate the same and acts thereunder.

Section 1. Be it enacted by the Legislature of the State of Texas: That all acts of the legislature purporting or intended to be amendatory of an act entitled "an act to consolidate in one act and amend the several acts incorporating the City of Houston in Harris county," approved January 23, 1874, including an act entitled, "an act to amend sections 7, 14, 15, 23 and 33 of the charter of the City of Houston," approved March 15, 1889, be and the same are hereby declared to be legal and valid, and all the inhabitants of the City of Houston shall be a body corporate, to be known hereafter by the name of "The City of Houston," and by that name they shall hereafter be known in law, and shall be capable of suing and being sued and defending in all courts in all matters what-

soever; and may have a common seal, and may alter and change the same at pleasure; may own, hold and convey any estate, real or personal, for the use of said corporation for any purpose whatsoever, both within the limits of said city, and without the limits of the same in Harris county, Texas; and section one of said original act, approved January 23, 1874, is hereby repealed, and the following sections of said original act last mentioned, with the subsequent amendments thereof, shall be and the same are hereby amended so as to read hereafter as follows:

Section 14. That there shall be elected by the qualified voters of said city, a city attorney, treasurer, city marshal, assessor and collector of taxes, a market master, a city recorder, a street commissioner, and health officer, city scavenger and city engineer, who shall hold their respective offices for two years, and until their successors are qualified, unless sooner removed by the city council; provided, that the present officers of said city shall hold their offices until the next election of city officers as prescribed by the ordinances now in force. The assessor and collector may appoint one or more deputies for whose conduct he shall be responsible; and such deputy or deputies shall have power to perform any act which may be performed by the assessor and collector in person. The mayor shall appoint a secretary and a superintendent of schools, whose appointment shall be confirmed by the city council, who shall hold their respective offices for two years, and until their successors are qualified, and shall perform such other duties as may be prescribed by the city council.

That Section 15 shall read as follows:

Section 15. That the recorder of said city shall exercise such jurisdiction as may be prescribed by the city council, not inconsistent with the constitution and laws of the State, and such as may be conferred by general laws on mayors and recorders, but when any person has been tried before a justice of the peace for any offense committed in said city against a general law, such person shall not be tried again for the same offense before said recorder. The rule of procedure in courts of justices of the peace in criminal matters shall govern the recorder's court in all matters of practice, and appeals may be taken from his decision in like manner. In the absence of the recorder or in case of his inability to hold his court, the mayor of said city may hold the same, and the acts and judgments of such mayor shall have the same force and effect as those of the recorder. The recorder shall have the same power to administer oaths, punish for contempt of his court, to summon witnesses and compel their attendance by process, to summon jurors and compel their attendance, as justices of the peace have. Such recorder's court shall be open daily, and the accused shall have a speedy public trial. The salary, if any, and fees of such recorder shall be determined by the city council; and such recorder shall, from time to time as required, report to the council, and do and perform such duties properly appertaining to the office, as may be prescribed by the city council; provided, that all process beyond the city limits shall be directed to and executed by the sheriff or some constable of the county.

That Section 16 shall hereafter read as follows:

Section 16. The city secretary shall attend the city council at its meetings, and shall have the custody of all laws and ordinances of the city and of its valuable papers, records and archives, and also of the common seal of the corporation, and shall affix the same to the obligations of the city by order of the city council. He shall keep a regular

and correct journal of the proceedings of the council in well bound record books, and shall perform such other duties as the city council may prescribe or direct.

The city treasurer shall have the custody of all monies and shall receive all monies and revenues coming into the city treasury, and pay the same out by order of the council. He shall keep the monies and funds of the city on deposit in some bank in the city of Houston and he shall keep the accounts of the city in well bound books, and the books and records of his office shall be open to the inspection of any citizen at any reasonable and proper time. He shall prepare and publish, in one or more newspapers printed in the city of Houston, an accurate and detailed statement and accounts of the receipts and disbursements of the revenues of the city, the outstanding obligations and liabilities of the city and the condition of the city treasury, which statement shall be prepared and made up to the first Monday of December of each year, and published on or before the fifteenth day of December; and it shall be the duty of the city council to require this statement to be made and published, and should the said statement not be made in the manner and at the time provided, the treasurer shall be liable to a fine of one thousand dollars to be recovered in the district court of Harris county, at the suit of the city attorney for and in behalf of the city of Houston, and the securities of the city treasurer on his official bond shall be liable for the amount of such fine.

The city attorney shall attend to all civil suits to which the city is a party, unless the council otherwise provide, and shall represent the city in person, or by deputy, in the recorder's court when necessary when requested so to do, shall draw all ordinances, and inspect and pass upon all documents involving the interests of the city, when requested so to do by the mayor or city council, and shall be the legal adviser of all the officers of the city upon legal questions touching their official duties, and he shall perform such other duties as the council may prescribe.

That section 23a shall hereafter read as follows:

Section 23a. The city council shall fix and determine the nature and extent of all sidewalks, curbing, street, drainage and sewerage improvements and decide as to the kind of material to be used. The cost of constructing or repairing, as the case may be, of all sidewalks, foot ways and curbing, and the cost of grading, shelling, paving, repairing, or otherwise improving any avenue, street, alley, or other highway or any portion thereof within the limits of the city, and the cost of all drains and sewers laid and constructed within the city, together with the cost of collecting thereof shall, whenever by a vote of two-thirds of the aldermen elected, such improvements shall be declared necessary for the public interest, be defrayed in case of curbing, sidewalk and street improvement, by the owner or owners of the lot or lots, block or blocks, tracts of land when not laid out into lots and blocks, abutting or [on] such street or portion of street improved, according to the cost of work in front of the particular lot or block or tract of land, but the cost against the several lots in any block may be reached according to foot frontage by estimate based on the entire cost of work in front of such block, from center to center of cross streets, and where the cross streets lead into the improved street at irregular distances, such apportionment by estimate may be between the lines of projections run into the center of such cross streets, and in such case the intersection to be paid for by the city, shall extend only to the center of the improved street, and in case of

sewerage or drainage improvements, shall be defrayed by the owner or owners of such lot or lots, block or blocks or tracts of land when not laid out into lots or blocks, according to the proportionate benefits of the lots, blocks or tracts of land within the sewerage or drainage district hereinafter provided for, taking into consideration the area and locality of the property affected, and the costs of all such improvements shall be a tax and charge against the person or persons owning such lots, blocks or tracts of land at the time such tax or any portion thereof shall become due as to such lots, blocks and tracts of land and a lien and incumbrance upon the land itself, and said tax against the property owner may be collected and the lien upon the property foreclosed in any court having jurisdiction. The city council shall have power to provide by ordinance for the laying-out of drainage and sewerage districts within said city and to provide for the cost of constructing main and lateral drains, sewers or conduits in such districts by assessment against the owner or owners of the lots, blocks or tracts of land when not laid out in lots and blocks, in such sewerage or drainage district according to the proportional benefit respectively to such lots, blocks or tracts of land, in view of area and locality, and main sewers and drains may be constructed, and the cost of the same assessed against the land within such district, as aforesaid in contemplation of additional lateral or cross sewers, or drains being constructed within such district at some future time. The cost of constructing curb walls and gutters and sidewalks on the corner of any block shall be assessed against the owner or owners of the corner lot or tract of land abutting thereon. Provided nothing in this act shall be construed to prevent the city council from constructing sewers and drains or making street improvements in whole or in part at the expense of the city, should it be deemed advisable so to do. The city council shall, by resolution duly passed, designate the streets or portion of streets on which curbing, sidewalk, or street improvements shall be made or constructed, and the district within which sewerage or drainage improvements shall be constructed, and the general nature of the improvements to be made, and the principal ingredient of the material to be used; provided however, that provision may be made in such resolution for receiving bids on more than one kind of material, or of different modes of construction. Said resolution may be amended or changed by a two-thirds vote of the city council, at any time previous to the publication of the advertisement for bids, and it shall be proper to embody in the same, language to the effect that the improvements contemplated will be made only on those portions of the street or streets referred to where good and sufficient improvements of like character do not exist, and in such event the mayor as the work progresses shall determine where such existing improvements, if any, are in fact good and sufficient within the meaning and intent of the resolution, and he shall direct the contractor accordingly, and any property owner shall have the privilege of putting down his own sidewalks and curbing in front of any lot owned by him, provided the same are completed or in course of construction, prior to the leaving of material near the same for that purpose by the contractor employed by the city, and if in course of construction, are completed in a manner satisfactory to the mayor, at such time to be determined by the mayor, as will not interfere with the work being otherwise done by the contractor. When sewerage or drainage improvements are contemplated, said resolution shall refer to the district within which property will be assessed for the payment of the same. The cost of paving any street intersection under

the provisions of this act, shall be borne by the city, and the city council is hereby authorized to levy an annual ad valorem tax, not exceeding one-fourth of one per cent per annum, for the purpose of paying for the paving of intersections, and provisions shall at the time be made by the city to assess and collect annually a sufficient sum to pay the interest thereon, and create a sinking fund of at least two per cent. The city shall have the same time in which to pay for such work as individuals have under the provisions of this act, and street intersections as here used, shall be deemed to mean all that portion of the street improved within an extension of the curb lines of the intersecting streets. Any railroad or street railway company shall be liable for the cost of grading, paving or otherwise improving the portion of the street or intersection used or occupied by such railway company, and such costs shall be a lien upon the property and franchises of the company. The portion of a street occupied by any railroad or street railway company shall be deemed to mean all that portion of the same between the rails of all tracks laid and extending six inches beyond the outer edge of the rails of such road, and including the space between the double tracks and between the main track, side tracks or turnouts. Any railroad or street railway company, or other person having an easement in any land not in, but abutting on the street, shall be liable for street curbing, sidewalk, drainage or sewerage improvements in the same manner as though it or he were the owner of such land, and a lien shall exist on such land, inclusive of such easement right, to secure the cost of such improvement. Should any railroad or street railway company propose to lay a track on any street or portion of a street which shall have been improved under the provisions of section 23 et seq., of this act, it shall become liable according to the portion of the street occupied by such company, as defined above, for such portion of the cost of improvement as the city council may direct, not in excess of what would have been its proportion of the original cost of the improvements had its track been on the ground when the improvement was made; and such amounts when collected shall be credited on the assessments made against abutting property and the city council may by ordinance provide for the form and manner of collecting and disbursing the same. Before any railroad or street railway company shall be permitted to occupy such improved street or portion of street, it shall file with the city secretary in writing, prepared by the city attorney, an acceptance of the terms on which its occupancy of the same shall be permitted.

That section 23b shall hereafter read as follows:

Section 23b. After the passage of a resolution of the character next hereinbefore referred to, it shall be the duty of the city secretary to have said resolution or so much of the substance of the same advertised for not less than four days in some daily newspaper published in the city of Houston, as will inform any person owning property liable to be affected by said resolution of the fact that the making of improvements is contemplated by the city council, which if carried out will subject his property to a special tax assessment for the payment of the same, and no further action in regard to the proposed improvements referred to in such publication shall be taken until the lapse of ten days from the first publication thereof; provided, however, that failure to advertise the same for more than one day, or any mistake or omission in the wording of said advertisement shall in no way vitiate or affect the validity of special assessments levied under the same. After the passage of such resolutions, specifica-

tions for the improvements referred to in the same shall be prepared by the city engineer, from time to time as the work progresses, which specifications, when prepared and adopted by the city council, shall be open for public inspection in the office of the city secretary, or that of the city engineer, and it shall be proper to provide in said specifications for such reasonable alterations in the grade, plan, form or dimensions of the work or additions to the same, as may become apparent or found to be necessary or expedient by the city engineer, or the board of public works, as the work referred to in the same progresses; provided, however, that it shall be the duty of said board of public works to examine said specifications, and a majority of the members thereof shall endorse their report in reference to the same thereon, or affix it thereto before the same are approved by the city council; provided further, however, that said city council shall nevertheless have the right, after such report shall have been made by the board of public works, to amend or change said specifications without further reference to said board. After said specifications shall have been finally approved by the city council, bids for the construction of said improvements shall be solicited by public advertisement duly made, which advertisement shall refer to said specifications, and the work provided for in the same shall be let to the lowest bidder, to be judged of by the city council. Said advertisements shall be published in the city inviting bids thereon, and the same shall state the time when such proposals will be opened, and shall show the manner in which the work is to be paid for. All proposals shall be addressed to the city secretary, and shall be opened in the presence of the city council at a regular meeting. Bond to be fixed in amount by the city council, and approved by the mayor shall be required of all contractors.

That section 23c shall hereafter read as follows:

Section 23c. After a bid for the construction of sidewalk, curbing, street, drainage or sewerage improvements shall have been accepted by the council, and a contract for the construction of the same entered into from time to time, as rapidly as practicable, there shall be prepared by the city engineer a roll, or rolls, showing the number of lots, blocks or tracts of land when not divided into lots and blocks, fronting on the street, alley, avenue or highway to be improved, or in case of sewerage or drainage or other improvements within the district provided for, the name or names of the owner or owners of such lot or part of lot, block or tract of land if known to the city engineer, and if unknown to him it shall be so stated, the number of feet frontage of such lot, part of lot, block or tract of land fronting on the portion of the street improved, in the case of sidewalk, curbing or street improvements, and the proportional cost to such lot, part of lot, block or tract of land, in view of area and locality, in the case of sewerage or drainage improvements and the total cost as ascertained and calculated by the city engineer of such improvements necessary to be borne by each, and to be paid by each owner of such property described in such roll. After said city engineer shall have prepared a roll as provided for, covering any portion of the work embraced in the contract, he shall endorse thereon a certificate, in substance as follows: "I certify that the above and foregoing roll of ownership and estimate sheet is correct and that I have honestly and faithfully prepared the same;" and he shall sign his name to such certificate. It shall then be the duty of the board of public works to examine such roll of ownership and the majority of the members of said board shall endorse thereon, or attach thereto, such report in reference to the same as they may deem proper. It

shall also be the duty of the city attorney to examine said roll, nor shall the same be submitted to the city council for approval until he shall have certified that such roll of ownership is in due form as required by the city charter. After the publication of said resolution hereinbefore referred to it shall be the duty of all persons owning land liable to assessment for the cost of improvements referred to in such resolution, to file in the office of the city engineer, previous to the completion of said roll of ownership, a correct description of all such land owned by them, and any one failing so to do shall not be permitted, after the final approval of said roll of ownership, to resist the payment of the full sum therein assessed against him, or against property owned by him, on account of any mistake or omission in said roll pertaining to the description of the land so owned by him, or to the name or names appearing in said roll as the owners of the same. It shall, however, be the duty of the city engineer to exercise reasonable diligence in ascertaining the name of the owner of the respective tracts of land referred to in such roll of ownership, and in describing such tracts of land correctly, and for this purpose it shall be sufficient for him to adopt the description and designation of ownership appearing in the latest assessment rolls of the City of Houston, prepared for purposes of general taxation, completed at the time of the preparation of such rolls of ownership. The said roll, when approved by the city council shall be prima facie evidence, that all prerequisites required by law pertaining to the levying of said assessment have been complied with, and in case of suit by said city to enforce said assessments, all the provisions of this act relating to misnomer, misdescription and to suits against unknown owners in case of certificates, shall apply in favor of said city.

That section 23d shall hereafter read as follows:

Section 23d. After a roll of ownership shall have been prepared, as above provided for, the same shall be placed in the office of the city secretary for public inspection, and it shall thereupon be the duty of the city secretary to cause to be published, for not less than four days in some daily newspaper published in the City of Houston, a notice, in form substantially as follows:

"Persons owning property on (here insert the name of the street or streets, or description of portions of the same referred to in said roll, or a description of the territory or district to which such roll relates), are hereby notified that the roll of ownership showing the amount of the special assessment tax levied against the owners of property above referred to, to cover the cost of improvement made in accordance with the resolution of the city council relating to the same, adopted (here insert the date of the resolution) has been placed in the office of the city secretary for inspection, in order that all persons interested therein, or to be affected thereby, may have an opportunity of calling the attention of the city council to any errors or mistakes connected with such assessments levied against property owned by them as shown on said roll;" and said roll shall in no event be adopted or approved by the city council until after the lapse of ten days after the first publication of said notice. And on the filing of said roll in the office of the city secretary for public inspection as aforesaid, it shall be the duty of the city secretary to mail a copy of said notice to the postoffice address, so far as known to him, of all persons whose names appear on said roll. And where the postoffice address of any person named in said roll is unknown to said city secretary, he shall address a letter, containing said notice, to Houston, Texas; provided, however, that failure on the part of said city secretary to comply with

the provisions above stated, in respect to mailing said notice to any person named in said rolls, shall in no wise impair or affect the validity of said roll, or the validity of the assessment provided for by the same; the publication of said resolution or substance of the same, as hereinbefore provided for, and the publication of said notice, shall be notice to all persons owning property against which special tax assessment for sidewalk, street, drainage or sewerage improvements, or for any other purpose, may be made, of the pendency of the proceedings had and to be had, and acts taken and to be taken in reference to the same; and such person shall be permitted, at any time after the date of the first of such publication, and previous to the final approval of said rolls by the city council, by petition to the city council filed with the city secretary, to object to any such acts and proceedings, and to show wherein they have been or may be wronged or injured thereby, and to ask for a revision or correction of the same; and they shall be permitted, and it shall be their duty before the final approval of such roll, to appear in person, or by agent or attorney before said city council, and not thereafter, at any time, before any other tribunal, fraud and collusion, which was then unknown and could not by reasonable diligence have been ascertained, excepted, and apply for redress for such wrong or injury, and for the correction of such errors as they may point out and establish to the satisfaction of said council; nor shall any such roll be finally approved by the city council after the filing of such petition by any person so affected or liable to be affected by said proceedings, until such petition shall have been heard and acted upon by the city council, although it shall not be necessary to incorporate in the minutes of said city council its action thereon, and it shall be the duty of any person who may deem himself injured by the action or non-action of the city council in reference to the matters contained in such petition, within five days after the approval of such roll of ownership, to apply to the proper court for an injunction, based on the facts alleged in such petition, restraining further action on the part of the city officials, or any of them, in reference to the matters complained of in such petition, and to the extent of the petitioner's interest in the same, and neglect or failure so to do shall forever estop such petitioner, and all parties claiming under him from denying the correctness of said roll, or the regularity of all proceedings previously had in reference thereto or the validity of the special tax therein assessed against the land owned by him; and at all times and in all proceedings in any court in which the validity of any special tax assessment that may have been laid under the charter of the city of Houston or amendments thereto, as shown by any roll of ownership, purporting to have been prepared by the city engineer in accordance with the provisions thereof, may be called in question; a recovery shall nevertheless be had in such suit for such sum as ought to have been assessed against the tract of land involved, according to the mode of apportionment, provided in the law of said city applicable to such improvement, and if for any reason, in law or fact, such recovery cannot be had, then a recovery shall be allowed, quantum valebat, not exceeding the contract price for the improvement in front of the lot or lots, block or blocks, or tracts of land involved, according to the front foot rule or standard; and if for any reason, in law or fact, recovery can not be had in either of the above modes, then recovery shall be allowed not exceeding the contract price, to the extent and according to the standard of benefits from the improvements in question to the lot or lots, block or blocks, or tracts of land involved, and such recovery in whichever mode allowed, shall be

a lien on such lot or lots, block or blocks, or tract of land for such amount as shall be established, together with eight per cent thereon from the date of the acceptance of said work by the city, and such lien shall be established and foreclosed accordingly. In case of curbing, sidewalk and street improvements, whether the recovery is had on the original assessment or otherwise, the lien shall extend in depth as to tracts of land not laid out into lots and blocks to the usual depth of lots in said city, namely one hundred feet.

That section 23e shall hereafter read as follows:

Section 23e. The sum assessed against each separate tract of land whether embracing one or more lots or not, as described in said roll of ownership next above referred to shall, unless otherwise provided in the resolution under which it is prepared, be divided by the city secretary into annual installments of as nearly equal amounts as may be deemed by him most practicable and convenient; provided, however, that the sum assessed against each separate tract of land shall be divided by him into as many annual installments as possible, not exceeding ten in number, and not less than ten dollars each. The first of said installments shall become due five days after said roll of ownership shall have been approved by the city council, and each of the remaining installments shall become due annually on the same day of the month in each year thereafter until all are due. On each of the respective days last referred to the entire interest on the whole amount of principal then unpaid shall also become due. The entire amount assessed against each separate tract of land shall bear interest at the rate of eight per cent per annum until maturity, and each installment shall bear interest at the rate of ten per cent per annum after maturity of the same. Failure to pay any installment of principal and interest when due, within sixty days of the time when suit shall have been entered on the same, shall, at the option of the party entitled to collect such indebtedness, cause all subsequent installments of principal and interest to mature and become due, and shall authorize the foreclosure of the lien for all installments of principal and interest unpaid. It shall be the duty of the city secretary, on the filing of said roll of ownership, and after the lapse of five days after its final approval by the city council, to divide the sums assessed against each separate tract of land described in said roll into installments as above provided for, and he shall add to each installment the amount of interest annually to become due on the entire amount of the principal unpaid at the maturity of such installment, which sum shall be the amount of the principal and interest due for each year respectively, on such tract of land, and he shall preserve in his office a list or roll, showing the result of such calculation as an adjunct to said roll of ownership. The person or persons owning the property subject to such assessment shall have the right, at any time, to pay off the entire assessment against such property, whether due or not, and such payment may be made to the city assessor and collector, who shall make entry on such roll or list to that effect, and give his receipt therefor, under the seal of said city, which shall be evidence of such payment in all courts; and interest shall be computed only to the date of such payment, and abate for all unexpired time. Upon such payment being made, the city assessor and collector shall notify the holders of the certificate or certificates, by mail, of such payment, if known, where certificates have been issued. The money so paid shall be turned over to the city treasurer, and shall be deposited by him, in a separate account, to the credit of the improvement on account of which paid,

and where certificates are outstanding for such payment, the holder thereof shall present the same to the city assessor and collector, who shall endorse thereon, under seal of the city the amount to which the same is entitled, as per the payment made to him, which certificate, so endorsed, shall be returned to the holder, and upon its presentation to the treasurer he shall pay the same as per such endorsement. The payment to the city assessor and collector by such owner or owners, shall operate a full discharge of the property affected and the holder of certificates shall look to the fund so paid as a substitute for the liability of such property, to which fund the lien of the certificate shall attach. Payments of certificates may be made by the owner to the holder of the certificates, in which case, on the presentation of the receipted certificate, the city assessor and collector shall enter payment on said roll as usual and sign same.

That section 23f shall hereafter read as follows:

Section 23f. Improvement certificates may be issued on said roll next above referred to as follows: For the total sum of money assessed against each separate tract of land whether or not embracing one or more lots, as aforesaid, an improvement certificate may be issued; such certificate shall show the number and series of the same; the sum for which it is drawn, which sum shall be the amount named in said roll assessed against the property described in said certificate; the number of lot or lots, block or description of the property, upon which said sum of money is a lien; the name of the person, if any, mentioned in said roll as being the owner of the same, and that such sum of money is a tax against the owner of and lien upon the property therein described; the date of its issuance, which date shall be the day on which the first installment becomes due; the date of the resolution authorizing the construction of the improvements, and that it is issued by virtue of section 23a et seq., of the charter of the City of Houston. Such certificate shall be issued in series, and numbered, and each shall show that the amount therein named is payable in annual installments, the date when the first installment becomes due, and that one of each of the remaining installments becomes due on the same day of each year thereafter until all are due: that the entire amount of principal at any time unpaid bears interest from date of certificates, at the rate of eight per cent per annum until maturity; and that each installment of principal will bear interest at the rate of ten per cent after the maturity of the same, and that failure to pay any installment of principal and interest when due, within sixty days after suit shall have been instituted on the same, together with the costs of such suit, shall at the option of the legal holder of such certificates, cause all subsequent installments of principal and interest to mature and become due, and shall authorize the foreclosure of the lien for all installments of principal and interest unpaid. There may be attached to said certificates as many coupons as there are installments of principal and interest provided for in the same, each of which coupons shall show the date of such certificate, and its number and series, the day when such coupon is due, the amount of the principal and interest represented by the same, and the same when delivered to the contractor or person authorized by him, or otherwise authorized to receive the same, shall be assignable by endorsement and delivery in the same manner as negotiable instruments. Should the owner of any tract of land described in such certificate fail to pay the amount shown by said certificate to be due thereon for the special tax therein provided for, when such certificate be-

comes due or when any installment provided for in the same becomes due, the owner of such certificate may institute suit for the enforcement of the tax and the foreclosure of the lien therein provided for, in any court having jurisdiction. And where the owners of [or] any of them are unknown, whether so stated in the certificate or not, the holder of the certificate may bring his action against them, describing them as unknown owners of the tract of land involved, designating it; and if the plaintiff, his agent or attorney shall at the time of commencing the suit, or at any time during its progress, make oath that the owners of such tract of land or some part of it, are unknown to him, and that he has named in his petition all who are known to him, the clerk shall issue a citation for such unknown owners, addressed to the sheriff or any constable of the county in which the suit is pending, which citation shall be published once in each week, for four successive weeks previous to the return day thereof; shall contain a brief statement of the cause of action, and have the requisites prescribed by article 1443 of the Revised Statutes of Texas; and such citation shall be served by publication and returned in like manner and with like effect, as in ordinary cases of citation by publication, under the provisions of the general law relating thereto.

That section 23g shall hereafter read as follows:

Section 23g. At any time after the passage of one or more resolutions relating to street, sidewalk, sewerage, or drainage improvements of the character referred to in section 23a of this act, and before the advertisement for bids in reference thereto, shall be made, it shall be proper for the city council, at any regular meeting thereof, and by a two-thirds vote of all the aldermen elected to pass an ordinance providing for the issuance of street improvement bonds. Said ordinance shall refer to and identify said resolution or resolutions by caption and date of passage, and shall name the estimated cost of the improvements therein provided for, as determined by the city engineer, and shall authorize the mayor to have prepared and engraved, improvement bonds of the City of Houston in denominations of \$1000 each or in any less sum in the discretion of the city council as may be determined on, amounting in the aggregate to the highest estimate of the city engineer. Said bonds shall run for ten years, but shall be subject to call and retirement, by the city by serial number at any time before maturity. Said bonds shall bear interest not exceeding six per cent per annum and funds for the payment of the same shall be wholly raised by special tax assessments levied on the property affected by said resolution or resolutions as provided for in section 23a et seq., of the charter of said city relative to street curbing, sewerage and drainage improvements, nor shall any general ad valorem tax ever be levied by said city for the payment of the same, and it shall be so stated on the face of said bonds unless the issuance of said bonds and levy of such ad valorem tax be authorized by the vote of the tax payers of said city in accordance with the provisions of section 41 of the charter of said city. When such bonds are issued and sold for cash, bids for the construction of the work embraced in said resolution or resolutions shall be solicited for payment to be made for the work in cash. Said bonds herein provided for shall in no event be sold for less than par, and not more than \$150,000 of said bonds shall be issued in any current year. The proceeds of the sale of said bonds shall be deposited as sold in a bank selected by the city council as a depository, and all funds placed in said depository shall be subject to the draft of the city treasurer only when countersigned by the mayor, and a majority of the members of the finance committee. When such

improvement bonds are issued and sold, it shall not be necessary to issue improvement certificates, as hereinbefore provided for, but said special tax assessment may be collected directly from the rolls of ownership as the same become due, by the city assessor and collector, and it shall be lawful for suits to be brought in the name of the city to enforce the collection of the same; provided, however, that in the event of such bonds being issued, said assessments shall not bear an increased rate of interest after maturity; and provided further, that under no circumstances whatsoever, shall it be lawful for said city assessor and collector, or said city council, to make any deduction of principal or remission of interest in favor of any person whomsoever. As the sums mentioned in said rolls, with interest thereon, as hereinbefore provided, are collected, the same shall be deposited in said depository, nor shall the proceeds of such special assessments be available for any other purpose whatsoever, than the payment of said bonds and interest thereon until the full liquidation of the same. It shall be competent for said city council, in its discretion, to provide by ordinance for the collection of said special assessments, by advertisement, and sales made directly by the city assessor and collector, from said rolls of ownership, in the same manner, as far as practicable, as in the case of general taxes levied by said city, and in such event all the provisions of said city charter, relative to the collection of taxes and proceedings had in reference to tax sales under the same, shall be applicable.

That section 23h shall hereafter read as follows:

Section 23h. There shall be appointed by the mayor and confirmed by a majority of the votes of the city council, three citizens of Houston, who shall constitute a board of public works. They shall hold office for two years and until their successors are appointed, and shall act gratuitously. They shall be allowed the sum of five hundred dollars annually, or such portion of the same as they may require to cover expenses, if any, which they may incur in performing the duties of their office. It shall be their duty to prepare and recommend to the city council, comprehensive plans for sidewalks, street, sewerage and drainage improvements, including the material to be used, and all other matters pertaining to the construction of such improvements. All matters involving an outlay of as much as five hundred dollars, pertaining to any improvement of the character hereinbefore mentioned, shall be first referred to them, and an interval of not less than ten days after such reference is formally made by the city council, shall be allowed them in which to report upon the same to the said council, and it shall be their duty to examine, pass upon, and report to the council, all plans and specifications relating to said improvements, before the same are finally approved by the city council. They shall also pass upon all bids received on matters relating to said improvements and recommend such action in reference to the same to the city council, as they may deem expedient. They shall also examine and pass upon all public works constructed for the city, where the contract exceeds five hundred dollars, and such work shall not be accepted by the city until their report in reference to the same shall have been laid before the city council, or until after the expiration of ten days from the time when the matter shall have been referred to them.

That section 23i shall hereafter read as follows:

Section 23i. The city council shall have authority, by resolution duly passed, to order the filling up of holes and depressions in which water has become or may be liable to become stagnant on private property, or

the construction of ditches and culverts for the drainage of the same; also to order the cutting of weeds and high grass on private property, and in that portion of streets and highways between the lot lines and the lines of the curb walls; and also generally to order the doing of any work of a sanitary character on any tract of land within the corporate limits of said city; also to order the construction and repairing of sidewalks and curbwalls; and it may be provided in the resolution directing and ordering the work of the character enumerated above, to be done, that the same shall be completed within a certain time to be named therein. On the passage of any resolution of the character above provided for in this section, the same shall be published for not less than four days in some daily newspaper published in the City of Houston; and it shall thereupon be the duty of the owner or owners of the lot or tract of land on which work of the character mentioned in such resolution is ordered to be done, or the owner or owners of the lot or tract of land when not divided into lots, abutting upon the street at the place where the repairing or construction of sidewalks or curbwalls is ordered, to comply with the directions and orders contained in such resolution, and perform or cause to be performed on such premises or adjacent to the same, the work therein directed to be done, within the period prescribed in said resolution to the satisfaction of the city engineer, or such other officials as may be provided for by the ordinances of said city, in accordance with such instructions, as may on application be given by such official, when all needful instructions shall not be contained in the resolution itself. And should any said property owner fail or neglect to comply with the requirements of such resolutions before the lapse of the period therein prescribed, within thirty days after his or her attention shall have been called to said resolution, by any officer of the city, by mail or otherwise, or within thirty days after the lapse of said period to be prescribed in the said resolution, and after the publication of the same when such owner or his residence is unknown to the mayor, then the mayor may order the work to be done by some official of the city, who shall keep a correct account of the cost of the same and the cost and expense of doing such work, when done by the city, together with ten per cent in addition thereto as a penalty, shall be a tax and charge against the person or persons owning the lot or tract of land on which such work may be done, or abutting upon the street or highway at the place where such work is done, and a lien and encumbrance upon the land itself, and such tax and charge against said property owner shall be due on completion of the work and shall be collected promptly by the city assessor and collector, and if not paid within thirty days thereafter, after becoming due, the same may be collected with ten per cent in addition thereto as attorneys fees, and eight per cent interest per annum and the lien foreclosed in any court having jurisdiction. An itemized bill or statement of the cost of the work when done by the city under the provisions of this section, after being duly sworn to by the officer under whose direction the work has been done, and after being approved by the mayor, shall be prima facie evidence in any court, of the performance of the work stated in such bill, at the cost therein stated, and compliance with all the provisions of this act, and that the amount stated is a just charge and tax against the property owner therein named, and a lien upon the property, described, as shown therein, subject to such correction as to such court shall seem meet and proper.

That section 23j shall hereafter read as follows:

Section 23j. The city council is hereby authorized and empowered to take and condemn land and real estate within the corporate limits of said city to the public use for streets, alleys and highways, and for extending, straightening and widening the same; and for public wharves and landing places for steamers or other crafts; for public schools and for public squares, parks and pleasure grounds. For the condemnation of any land or real estate, the following proceedings shall be had: The city council shall pass a resolution describing by metes and bounds the land to be condemned, stating for what public purpose it is intended to be used, and thereupon the provisions contained in articles 4183 to 4205a, inclusive, of the Revised Civil Statutes of the State of Texas, A. D. 1879, relating to the condemnation of lands by railway companies, shall regulate and control the proceedings had and taken by said city for condemnation purposes so far as applicable.

Section 23k. That said city council are hereby authorized and it is hereby declared to be their duty in all cases where special tax assessments for public improvements or improvement certificates issued in payment for the same, which may be declared void by any court of last resort, by reason of the want of power or authority to make or issue the same, or by reason of non compliance with any of the provisions of the charter of said city existing at the time, whether of a jurisdictional character or otherwise, at any time thereafter, to reassess and relevy the amount of such assessment or taxes so declared void, and to collect and authorize the collection of the same in the same manner as though such assessment or certificate had been originally valid: The reassessment or relevy of any general tax or special assessment may be made directly by the city council, or in such mode as to them may seem meet and proper, nor shall any person whomsoever be heard to complain of the manner and form of such reassessment or of the result thereof unless he can show substantial injury to himself therefrom occurring, and in such event only to the extent of the injury or loss shown, and the provisions of this section and of the next preceding section of this act from section 23a to section 23j inclusive shall be liberally construed in favor of said city, or in favor of the contractor doing the work, or person holding under him, to the end that in all cases the payment of both general taxes and special tax assessment may be rigidly and impartially enforced; provided, that this act shall not vaudate any certificate heretofore issued, nor shall such certificate be reissued, nor shall any roll of ownership ever be approved for improvements made prior to this act, except contracts now pending.

That section 23l shall be inserted and read as follows:

Section 23l. If the purchaser at any tax sale or at any sale under proceedings had to foreclose a tax lien on property sold in the City of Houston for non payment for general taxes, or special tax assessments by said city, shall fail to acquire a valid title to the property so purchased by him, by reason of any irregularity or defect, in the assessment or levy, or for any other reason whatsoever whether of a jurisdictional character or otherwise, such purchaser shall nevertheless have a lien on the property so purchased for the taxes which would have been due on the same, had all proceedings in reference thereto been legal and regular, together with all costs connected therewith; also for all taxes both general and special, by him subsequently paid on said property, with interest on all of such sums, at the rate of eight per cent per annum and he shall be entitled to judgment for such amounts and for the enforcement of the lien against the owner of said property in the same action wherein the invalidity of

said tax sale, or the sale under foreclosure of the tax lien, is declared void, together with his costs incurred in such action.

That section 23m shall be inserted and read as follows:

Section 23m. The city shall have power to enforce the observance of ordinances adopted by the city council either by imposition of penalties, to be collected by civil proceedings, in suits brought by the city or by fine and imprisonment, as may be deemed most expedient; provided, however, that no penalty, imposed for the violation of any ordinance, shall exceed the sum of one hundred dollars, and there shall be only one recovery had for all acts committed previous to the institution of a suit for the recovery of such penalties; and any person or corporation violating an ordinance of the City of Houston, to enforce the observance of which a penalty may have been imposed in lieu of a fine, shall be liable to the city in a civil suit brought for the amount of such penalty in either of the Justice courts of Precinct No. 1 in Harris county, Texas. The city council shall have power and authority to secure the safety and convenience of passing in the streets, sidewalks and other places in the city; to fix the squaring, and to prevent encroachments and obstructions on the streets, sidewalks, squares, ways, levees and public roads and places; to fix the place for anchoring of water craft on Buffalo Bayou; to establish an active system of inspection over the conduct of persons and premises; to prevent cattle, horses, swine, goats, geese and animals from running at large in the streets or within such prescribed limits as may be established by the city council; to establish and maintain a city police, prescribe the duties of policemen, and regulate their conduct; to provide for lighting the streets by gas, electricity or other means, and for this purpose may establish gas works or electric works, for the manufacture of gas or electricity for the use of the city and inhabitants thereof at cost price; to determine in what part of the city slaughter houses, bone boilers, soap makers or other establishments of any business which is or may be injurious to the value of adjacent property, or unwholesome or disagreeable to the occupants of adjacent property, shall not be allowed to be carried on or to be erected and to regulate the same, and provide for the removal of such establishments; to determine in what part of the city wooden buildings shall not be erected; within the limits prescribed no person shall be permitted to erect such buildings; to prevent gunpowder or other explosive material, kerosene oil or other inflammable oils, being stored within the city limits, in such quantity as to endanger the safety of adjacent property; to provide means for the protection against and extinguishment of conflagrations and for the regulation, maintenance and support of a fire department; to permit or forbid theatres, balls or other public amusements, and to suppress the same whenever the preservation of order, tranquility or public safety may require; to close dram shops, drinking saloons and other places where intoxicating liquors are sold and variety theatres whenever necessary or expedient; to define what shall be a nuisance in said city and to abate them by summary proceedings; to prohibit the burial of the dead within city limits and to regulate such burial when allowed; to prohibit and punish keepers and inmates of bawdy houses and variety shows and to segregate and regulate the same and determine such inmates and keepers to be vagrants and prescribe the punishment of such persons; to provide a workhouse for vagrants and disorderly persons, who are unable to pay fines and to make regulations concerning the same; to regulate weights and measures, fix standards of weight and measure and to fix

penalties for not using the same; to provide and keep a city prison; to make all needful and proper regulations concerning bakers, butchers, keepers of taverns, grog shops and other public houses; draymen, horse drivers, water carriers, omnibus drivers, hack drivers and drivers of baggage wagons and especially to preserve order and prevent noise and confusion in and about the several depots on the arrival and departure of railway trains; to prevent extortion by carriers of passengers or baggage, hacks, dray and all public conveyances by establishing maximum rates of charges; to suppress gambling houses, and to punish keepers of gambling houses and all persons who play at cards or games of any kind and to punish persons who sell lottery tickets, or who advertise lottery drawings or schemes and the result of the drawing of lotteries; to direct and control the laying and construction of railroad tracks, turnouts and switches, and that they be required to be constructed and laid out so as to interfere as little as possible with the ordinary travel and use of the streets; to require railway companies to keep the streets through which they run in repair, and to light the same whenever deemed necessary; to construct and keep in repair bridges and crossings at the intersection of streets and avenues, and over all ditches, sewers and culverts on the line of the railways; to regulate the speed of engines and locomotives within the city; and generally, to make and establish all rules, regulations, by-laws and ordinances which may contribute to and promote the better administration of the officers of the said city, as well as for the maintenance of the peace, tranquility and safety of said city, and for the protection of the persons and property of its inhabitants. The city council shall also have authority to pass ordinances authorizing the destroying of clothing, bedding, furniture and buildings infested with the germs of any contagious or infectious disease when in the opinion of the city health officer the public health requires the destruction of the same, and may also in the same manner authorize the destruction or removal of buildings or other objects after the same shall have been declared a nuisance by the city council; provided the city shall pay the value of such property to the owners thereof before destroying the same.

That section 23n shall be inserted and read as follows:

Section 23n. No person shall erect any building or fence in the city without first obtaining a permit from the mayor and having the lines of his property established by the city engineer; provided that fences may be constructed on interior lines without such permit, and the lines of property not subdivided into lots or blocks may be established and fences built thereon without such permit; but all permits for building houses or fences shall be issued by the mayor and city engineer free of charges. The city council may provide, own and maintain waterworks for the use of the city and inhabitants.

That section 23o be inserted and read as follows,;

Section 23o. It shall be the duty of the mayor, at the last meeting of the city council held in December of each and every year to present to the city council a message containing a statement of the financial condition of the city, including an itemized estimate of the cost of maintaining the various departments of the city government, for such ensuing year, and the sums of money which, in his opinion should be appropriated for the maintenance of such respective department, together with his recommendation in regard to such appropriations, and in regard to the per centage of taxation, and amount of occupation tax necessary

to be levied for such ensuing year. It shall be the duty of the city council at its first meeting in January of each and every year to appropriate such sums of money, respectively for each of the various departments of the city government as said council shall deem necessary for the proper maintenance of the same during the current year. Such current year shall be deemed to begin on the first day of January previous to such meeting, and to end on the thirty-first day of December next thereafter. Said council at said meeting shall accordingly appropriate a certain sum of money for the use of each of the following departments of said city government, to-wit: Public school department, police department, fire department, street department, bridge department, public health department, salaries of officials not included in appropriations for the foregoing departments, public lights, waterworks and such other departments as it may be deemed proper to mention, together with an appropriation for the sum deemed necessary to cover all miscellaneous expenses not mentioned under the head of any special department; and it shall be the duty of the city secretary to keep a separate account with each of such departments, and he shall be prepared at every regular meeting of the city council, to give information as to the amount expended, and the balance remaining to the credit of any department, and no draft shall be drawn upon, or paid by the city treasurer, unless the same shows on its face to which of said departments the sum of money named in the same should be charged.

Sec. 2. That all laws in conflict with the provisions of this act be and the same are hereby repealed. And there being no adequate law now in force to enable the city of Houston to improve its streets creates an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and also that this act take effect from and after its passage, and it is so enacted.

[Note.—The foregoing act originated in the Senate and passed the same by a vote of 21 yeas and no nays; and passed the House by a vote of 74 yeas and no nays.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the first day of April, A. D. 1891, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the constitution, and thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

EL PASO—AMENDMENT TO CHARTER OF.

Sec.

1. Amends act of March 2, 1889.
- (7) Elective officers.
- (9) Time and notice of elections.
- (13) City council to elect certain officers.
- (15) Vacancies in office, how filled.

Sec.

- (25) City clerk, duties of.
- (62) To prevent encumbering of streets.
2. Courts to take judicial notice of this act.
3. Emergency clause.

CHAP. 17.—[H. B. No. 500.] An act to amend an act entitled "an act to grant a new charter to the City of El Paso," approved March 2nd, 1889.

Section 1. Be it enacted by the Legislature of the State of Texas: That the following sections of the act of the Legislature entitled an act to grant a new charter to the city of El Paso, approved March 2nd, 1889, be so amended as to hereafter read as follows:

Section 7. The qualified electors of said city shall elect the following

named officers thereof: The mayor, two aldermen from each ward, a recorder, a treasurer, a city assessor and collector, and a city engineer, each of whom shall hold his office for two years and until the election and qualification of his successor. That on the second Tuesday in April of each and every year ending in an even number there shall be elected one alderman from each ward, a recorder, a treasurer, a city assessor and collector, and a city engineer, and that on the second Tuesday in April in each and every year ending in an odd number, the qualified electors of said city shall elect the following named officers: the mayor and one alderman from each ward, each of whom shall hold his office for two years and until the election and qualification of his successor.

Section 9. The city council shall by ordinance prescribe the mode and manner of proclaiming, holding and conducting elections, but should the city council from any cause fail to do so then said election shall be called by the proclamation of the mayor thirty days prior thereto, and the said election shall be holden, conducted and returns made as prescribed by the State law.

Section 13. On the third Tuesday of April, A. D. 1893, and on the third Tuesday in April in each and every year thereafter ending in an odd number, the city council shall elect, by ballot, the following named officers, who shall hold their offices for two years and until the election and qualification of their successors; A city clerk, a city attorney and such other officers and agents, other than policemen, as the corporate necessities may require; provided, that when the population of the city shall reach twenty-five thousand, the office of assessor and collector of taxes may be divided, and there shall be elected an assessor of taxes and a collector of taxes, whose duties, powers and compensation, respectively, shall be fixed by the city council, as provided in this act. Every person elected to office by the city council, or appointed by the mayor shall, within twenty days thereafter, qualify and enter upon the discharge of his duties, and in default thereof, the city council, shall declare the office vacant and proceed to fill the same by a new election. And there shall be a chief of police appointed by the mayor, by and with the consent of the board of aldermen, whose term of office shall expire with that of the mayor appointing him. The mayor shall also by and with the consent of the board of aldermen, appoint all police officers.

Section 15. When a vacancy shall occur in any office the city council shall have power to fill the same by appointment, and the person so appointed shall hold his office until the next ensuing municipal election, if said office be an elective office, but if said office be one within the appointive power of the city council, then the person so appointed, shall hold his office for the unexpired term; provided, that whenever a vacancy shall occur by resignation, or otherwise, in the municipal offices of the city, so that such vacancies can not be filled under the charter of the city, or under the laws of the State in force at the time of such vacancy or vacancies, then in that event, it shall be the duty of any judge of a court of record of El Paso county, upon the petition of not less than fifty of the principal taxpayers, citizens of the city, at once to order an election to fill such vacancy, giving notice of not less than ten days in the usual manner provided for such elections. During the temporary absence or disability of any officer, the city council shall elect some suitable person to discharge the duties of the absent or disabled officer until his return or the removal of his disabilities.

Section 25. It shall be the duty of the city clerk to attend every meet-

ing of the council and keep accurate minutes of the proceedings thereof, in a book to be provided for that purpose, and to engross and enroll all laws, resolutions and ordinances of the city council, to keep the corporate seal; to take charge of and preserve and keep in order all the books, papers, records, documents, and files of said council; to countersign all commissions issued to the city officers and licenses issued by the mayor and to keep a record or register thereof, and to make out all notices required under any regulation or ordinance of the city. He shall draw all warrants on the treasurer and countersign the same and keep an accurate account thereof in a book provided for that purpose. He shall be the general accountant of the city, and shall keep in books regular accounts of the receipts and disbursements for the city, and separately under proper heads each cause of receipts and disbursements, and also accounts with each person, including officers, who have money transactions with the city, crediting amounts allowed by proper authority and specifying the particular transaction to which such entries apply. He shall also keep a register of bonds and bills issued by the city, and all evidences of debt due and payable to it, noting the particulars thereof, and all facts connected therewith as they occur. He shall carefully keep all contracts made by the city council, and he shall do and perform all such other duties as may be required of him by law, ordinance, resolution or order of the city council. He shall receive for his services an annual salary, payable at stated periods, to be fixed by the city council. The said clerk shall be authorized to administer oaths, and shall be entitled, in addition to his salary, to charge a fee of twenty-five cents for each oath administered to persons other than the officers and agents of said city.

Section 62. To prevent the encumbering of the streets, alleys, sidewalks and public grounds with carriages, wagons, carts, hacks, buggies or vehicles of whatsoever kind, boxes, lumber, timber, firewood, posts, awnings, signs, or any other substance or material whatsoever, or in any other manner whatsoever to compel all persons to keep all weeds, filth and any kind [of] rubbish from the sidewalks, streets, alleys, gutters in front or on the side, or in the rear of the premises owned or occupied by them; to require and compel the owners of property to fill up, gravel, level and otherwise improve the sidewalks and alleys in front and in the rear, or adjoining their property; and to inspect the construction of buildings, to cause unsafe buildings to be made safe or to be removed, and to prohibit the use of material deemed unsafe.

Sec. 2. This act shall be deemed a public act, and the courts shall take judicial notice hereof at all times and places.

Sec. 3. The near approach of the close of the session, and the fact that it is desirable that this act go into effect as soon as possible, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and it is so suspended, and this act shall take effect from and after its passage.

[Note.—The foregoing act originated in the House and passed the same by a vote of 78 yeas and no nays; and passed the Senate by a vote of 21 yeas and 1 nay.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the first day of April, A. D. 1891, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the constitution, and thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

**BOWERS AND PINEY CREEK RAILWAY COMPANY—CHARTER
RESCINDED.**

- Sec. 1. Revokes and annuls charter of said company.**
2. Emergency clause.

CHAP. 18.—[H. B. No. 333.] An act to rescind and annul the charter and dissolve the corporation known as the Bowers and Piney Creek Railway Company, and to exempt said company from all further duties and obligations thereunder.

Section 1. Be it enacted by the Legislature of the State of Texas: That the corporation heretofore known as the Bowers and Piney Creek Railway Company, which was duly organized under the laws of the State of Texas, and whose charter was approved and filed in the office of the Secretary of State of said State on the 28th day of March, A. D. 1889, and whose principal office is at Bowers, in Polk county in said State, be and the same is hereby dissolved, and upon the passage of this act, shall become and be defunct and cease to have or exercise any of the rights, privileges or franchises in said charter granted; and that said charter is hereby revoked and annulled, and from and after the time when this act shall take effect, said company is discharged and shall be exempt from all duties and obligations thereunder; provided, that nothing herein shall be construed to exempt said company from any liability heretofore incurred by it, under said charter, or that may be so incurred prior to the time when this act shall take effect.

Sec. 2. The near approach of the close of the session, and the great number of bills requiring the consideration of both houses of the Legislature, creates an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the first day of April, A. D. 1891, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the constitution, and thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

**GALVESTON AND WESTERN RAILWAY COMPANY AND GALVESTON AIR
LINE RAILWAY COMPANY—CONSOLIDATION OF AUTHORIZED.**

- | | |
|---|---|
| <p>Sec.
 1. Consolidation, by purchase, of said companies authorized.
 2. The Galveston and Western Railway Company may consolidate its stock, etc., with any other company.</p> | <p>Sec.
 3. Said company subject to laws of this State; charges subject to control of railroad commissioner.
 4. Emergency clause.</p> |
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CHAP. 19.—[H. B. No. 456.] An act to authorize the Galveston and Western Railway Company to acquire the property and franchises of the Galveston Air Line Railway Company; to own wharves and elevators, and to consolidate with other railway companies in this State.

Section 1. Be it enacted by the Legislature of the State of Texas: That the Galveston and Western Railway Company, a corporation created under and by the laws of this State, shall, whenever authorized so to do, by a vote of the owners of three-fourths of its stock, have the right and be empowered to acquire, hold, own, occupy, use and enjoy all the rights, privileges, franchises, and property of the Galveston Air Line

Railway Company, with the further right to buy, construct, own, use and enjoy such wharves, elevators and warehouses in the city of Galveston, as are necessary to carry on the business of said railway as consolidated; and to own and use such real estate as may be necessary therefor.

Sec. 2. That said Galveston and Western Railway Company shall also have the right to consolidate its stock, property and franchises with those of any other railroad company or railroad companies chartered under or by the laws of this State; provided, such railroad company or railroad companies do not own or control a parallel or competing line.

Sec. 3. That said railway company and all railroads with which it may be consolidated shall be subject to all laws of this State, now in force and hereafter to be enacted, and all wharves and elevators erected, owned or operated thereby shall be subject to the control of and regulation of its fees and charges by the railroad commission of Texas, under the rules that may be prescribed by said commission, and by the laws of Texas now existing or hereafter enacted by the Legislature.

Sec. 4. The fact that the accumulation of business and the near approach to the end of the session, and the further fact that private bills can only be considered under the rules of the house one day in each week, renders it doubtful if this bill can be reached on the calendar and read on three several days, which creates an emergency that the rule requiring bills to be read on three several days be suspended, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the first day of April, A. D. 1891, but was not signed by him nor returned to the house in which it originated with his objections thereto, within the time prescribed by the constitution, and thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

J. A. BELVIN—ACT FOR RELIEF OF.

Preamble.

- Sec. 1. Treasurer to credit note of J. A. Belvin.
 2. Patent to issue upon payment of note.
 3. Emergency clause.

CHAP. 20.—[H. B. No. 584.] An act for the relief of J. A. Belvin.

Whereas, on the fourth day of March, 1881, J. A. Belvin filed and settled on the N. W. $\frac{1}{4}$ of section 44, cert. $\frac{1}{7}$ H. & T. B. Ry Co. situated in Brown county, Texas, which was sold by the State to him for \$160.00, and in compliance with law, he made the first payment of \$16.00 to the county surveyor who was to have forwarded the same to the General Land Office with the application.

And whereas through the negligence of the county surveyor, said file and application was never perfected on account of a mistake in the field notes, and the same was never entered in the Land Office.

And whereas, in 1882, the new county surveyor of said county refused to correct the field notes so made by the first surveyor, but caused and required a new file to be made on the land by the said J. A. Belvin who had gone on the land and in good faith, made valuable and permanent improvements thereon.

And whereas by the refusal of the new county surveyor to correct the field notes within the time required by law, and by requiring the said J.

A. Belvin to refile on said land, he was, by the law of 1881, required to pay to the State the value of his improvements, to wit: \$103.00, which amount is included in his note to the State for the balance of the purchase money; that said note is dated March 6th, 1882, therefore,

Section 1. Be it enacted by the Legislature of the State of Texas: That the State Treasurer shall and is hereby authorized to credit the note of the said J. A. Belvin of date March 6th, 1882, executed in payment of said N. W. $\frac{1}{4}$ of section 44 cert. $\frac{1}{4}$ H. T. & B. Ry Co. situated in Brown county, Texas, with the value of the improvements so made by him and included in said note, to wit: the sum of \$103.00 together with all interest accrued on said amount from the date of said note; and when said credit is made, the Treasurer shall mark said note satisfied, upon the payment by him of the balance of principal and interest due thereon.

Sec. 2. Upon the payment of said note as provided in section one of this act, the Commissioner of the General Land Office shall and he is hereby authorized to issue patent to the said J. A. Belvin for the land described in section one of this act, upon the payment of the patent fee.

Sec. 3. The near approach of the close of the present session of the Legislature, creates an imperative public necessity and an emergency exists that the constitutional rule requiring bills to be read on three several days be, and the same is hereby suspended, and that this act shall take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act originated in the House and passed the same by a vote of 84 yeas and no nays; and passed the Senate—vote not given.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the first day of April, A. D. 1891, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the constitution, and thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

ANDREA CASTANON DE VILLANUEVA, KNOWN AS MADAM CANDELARIA—ACT FOR RELIEF OF.

Preamble.

- Sec. 1. Pension of \$150 per year.
2. Emergency clause.

CHAP. 21.—[H. B. No. 404.] An act for the relief of Andrea Castanon de Villanueva, otherwise known as Madame Candelaria.

Whereas, the State under its pension law recognizes and rewards the services of the men who aided the cause of Texas in its struggle for independence, and makes no provision for the reward of females who may have rendered good and efficient service to the cause; and, whereas Mrs. Andrea Castanon de Villanueva, alias "Madam Candelaria," did render efficient service to said cause as nurse to the sick during the siege of the Alamo, in the year 1836, and did contribute to the support, security and comfort of many Americans, during said struggle, and is now old, in indigent circumstances, and unable to provide for herself; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas: That the name of Andrea Castanon de Villanueva be placed on the pension roll of this State in recognition of and as a reward for the service

rendered by her as nurse to the sick during the siege of the Alamo, at the rate of one hundred and fifty dollars per year.

Sec. 2. The fact that the beneficiary under this act is 107 years of age, feeble and in absolute want without any means of subsistence, and is likely to die in a very short while without having been required for her generous and meritorious services to the American troops in their efforts to achieve Texas independence, creates an emergency and imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect from its passage, and it is so enacted.

[Note.—The foregoing act originated in the House, and passed the same by a vote of 72 yeas and 5 nays; and passed the Senate by a vote of 21 yeas and 9 nays.]

Approved April 13, 1891.

AUSTIN—ACT INCORPORATING CITY OF.

Sec.

1. Incorporating clause.
2. Define city limits.
3. Division of city into wards.
- ORGANIZATION AND PROCEDURE OF THE CITY COUNCIL**
4. City council, of whom composed.
5. Board of aldermen—two members from each ward.
6. Elections to fill vacancies.
7. Qualifications of members of city council.
8. Removal from ward vacates office of alderman.
9. City council the judge of election, etc., of members; contests.
10. Majority of council constitutes a quorum.
11. City council may determine rules of proceedings.
12. Journal of proceedings.
13. When yeas and nays to be entered on journal.
14. Ordinances and resolutions to be read on three separate days: exception.
15. Majority of whole council necessary to pass ordinances for certain purposes.
16. Compensation of aldermen; aldermen and mayor not eligible to other city office during their terms; shall not be interested in city contracts, etc.
17. Vacancies in board of aldermen; how filled; oath.
18. President of board of aldermen.
19. President to preside in absence of mayor.
20. President of council to act as mayor, when.
21. Alderman to preside, when.
22. Vote of president of board of aldermen.
23. Sessions of city council, when held.
24. Special meetings, notice of.
25. Ordinances and resolutions subject to veto of mayor.
26. Veto of an appropriation ordinance.
27. Approval of ordinances, resolutions, etc.
28. When ordinances, etc., take effect without approval.
29. Passage of ordinances, etc., which have been disapproved.
30. Style of the ordinances.
31. Ordinance imposing a penalty, etc., to be published.
32. When ordinances take effect.
33. In case of a tie vote the mayor has casting vote.
- GENERAL POWERS OF THE CITY COUNCIL.**
34. Control of city property and finances; power to enact ordinances not repugnant to the constitution and laws of the state.
- TAXATION.**
35. (1) For current expenses.

Sec.

- (23) To create offices and employ agents etc.
- (24) Census.
- (25) To provide for removal of officers.
- (26) To fix compensation of jurors and witnesses, impose fines, etc.
- (27) To erect workhouse and prisons.
- (28) To regulate ferries, toll bridges, etc.; exception.
- (28) To prevent riot, etc.
- (30) To use, etc., ground owned by the city.
- (31) To regulate construction of doors, etc., of theatres, etc.
- (32) To require construction of fire escapes on hotels, etc.
- (33) Inspection of premises, etc.
- (34) To prevent horse racing, immoderate driving, etc.
- (35) To prohibit rolling of hoops, flying kites, etc.
- (36) To prevent boxing matches, etc.
- (37) To regulate, etc., drumming on the streets.
- (38) Cleansing of premises.
- (39) To build, etc., street railroads.
- (40) To preserve order, etc., at depots.
- (41) To prohibit, etc., driving of cattle through streets.
- (42) To inspect construction of buildings, etc.
- (43) To regulate, etc., erection of poles.
- (44) To regulate speed of locomotives, etc.
- (45) To direct and control laying of railroad tracks.
- (46) To erect water and electric light system.
- (47) To regulate use of locomotive engines, tracks, etc.
- (48) To regulate speed of railroad trains.
- (49) To regulate horse railroad cars, etc., tracks, etc.
- (50) To establish public pounds, etc.
- (51) Elections.
- CITY OFFICERS—THE MAYOR.**
53. Election, term of office, salary..
59. Qualifications.
60. New election, when to be ordered.
61. Vacancy in office, how filled.
62. Removal for malfeasance.
63. Shall sign commissions.
64. Duty as to subordinate officers.
65. Shall preside at public meetings of council: vote.
66. Message to city council.
67. To take care that the laws are enforced.
68. May remit fines, etc., and grant pardons, when.
69. Has power to solemnize marriages and administer oaths.
70. Ex-officio recorder.

- (2) Interest and sinking fund on bonded debt.
 - (8) To raise money for definite purpose; bonds; bonded debt of city how increased; lands not laid off into blocks and lots to be assessed by the acre.
 - 36. Bonds to specify what; payment of interest and principal.
 - 37. Use of the money for which bonds were sold, and money to pay interest, etc.
 - 38. Investment of sinking fund.
 - 39. May provide for prompt collection of taxes and for assessments, etc.
 - 40. Certain taxes may be collected by suit.
 - 41. Board of equalization.
 - 42. Seizure and sale of property by assessor and collector.
 - 43. Advertisements and sales by the assessor and collector; right of redemption.
 - 44. Foreclosure of lien for taxes; redemption.
 - 45. Property subject to taxation.
 - 46. Occupation tax.
 - 47. City council shall have power to provide for assessing and levying of taxes aforesaid, and determine when taxes shall be paid.
 - 48. No money shall be paid to person in arrear for taxes.
 - 49. Assessments on lands; seizure and sale of property of delinquent taxpayer.
 - STREETS AND SEWERS.
 - 50. Council shall have exclusive control of streets, etc.
 - (1) To abate and remove encroachments.
 - (2) To put drains and sewers therein; to condemn property.
 - (3) To permit and regulate gas and water mains, telegraph, etc. poles.
 - (4) Grade of sidewalks, streets, etc.
 - (5) Culverts, sewers, crossings, etc.
 - (6) Sidewalks, footways and streets.
 - (7) To grade, cut down and fill up same.
 - (8) To regulate use of same, etc.
 - 51. To determine nature and extent of sidewalks, etc., improvements, and kind of material.
 - 52. Board of street and sewer commissioners.
 - 53. Duty of said board.
 - 54. Same. Reports relative to improvements.
 - 55. Same. To pass on bids and street work, when.
- MISCELLANEOUS POWERS OF THE CITY COUNCIL.
- 56. To elect certain officers.
 - 57. (1) To prevent introduction, etc., of contagious disease; to make quarantine ordinances, etc.; establish hospitals.
 - (2) To establish markets; mode of inspecting cattle, meats, etc.; to prevent sales on public squares, etc.
 - (3) To define a nuisance and punish the authors.
 - (4) To do all acts, etc., necessary for public health, etc.
 - (5) To co-operate with commissioners' court as to improvements, etc.
 - (6) To regulate burial of the dead.
 - (7) To provide for erection of needful buildings.
 - (8) To license and regulate auctioneers, grocers, etc.
 - (9) To license and regulate hacks, carriages, etc.
 - (10) To license and regulate theatrical and other exhibitions, etc.
 - (11) To license and regulate billiard tables, restaurants, saloons, etc.
 - (12) To suppress gaming, etc.
 - (13) To prohibit bawdy houses, etc.
 - (14) To provide for prevention of fires, etc.
 - (15) To regulate carrying on of manufactories.
 - (16) To compel owners of houses, etc., to have scuttlies upon the roof.
 - (17) To create a board of fire commissioners.
 - (18) To regulate building partition walls, etc.
 - (19) To establish weights and measures.
 - (20) Inspection of lumber.
 - (21) Inspection of hay, charcoal, etc.
 - (22) To regulate duties, etc., of officers and employees.

OTHER OFFICERS.

- 71. List of other officers; terms of office.
- CITY MARSHAL.
- 72. Duties and salary of.
- CITY CLERK.
- 73. Duties of; minutes of council; papers, etc.
 - 74. Same; custody of ordinances and seals, etc.
 - 75. Same; such further duties as may be required.
 - 76. Salary.
- CITY ATTORNEY.
- 77. Qualifications; duties.
 - 78. Salary; may employ assistant.
- CITY ENGINEER.
- 79. Duties of.
 - 80. Shall have such powers as may be prescribed, etc.
 - 81. Salary.
- CITY ASSESSOR AND COLLECTOR.
- 82. Duties of.
 - 83. Same.
 - 84. Bond.
 - 85. Salary.
 - 86. Shall perform duties herein prescribed and such as the council may prescribe.
- TREASURER.
- 87. Bond; shall receive and keep moneys.
 - 88. Shall render statement; other duties; salary.
- THE RECORDER.
- 89. Recorder's court.
 - 90. Peace bonds; issuance of writs.
 - 91. Power to administer oaths; ex officio justice of the peace.
 - 92. Conservator of the peace; term of court; trial by jury; power to punish for offenses.
 - 93. Other duties; salary.
 - 94. Qualifications.
 - 95. Highest and lowest fines to be imposed.
- STREET SUPERINTENDENT.
- 96. Election; term of office.
 - 97. Salary.
 - 98. Powers and duties of.
 - 99. Other duties.
- GENERAL PROVISIONS.
- 100. Power of council to make all ordinances necessary, etc.; rights of owners of property on Colorado river.
 - 101. Ordinances, etc., in force and not in conflict herewith to remain in force.
 - 102. Officers of the city to continue in office till expiration of their respective terms.
 - 103. Fiscal year.
 - 104. Moneys received to be applied to indebtedness of that fiscal year, except special funds.
 - 105. No contract can be made for payment of money after fiscal year; exception.
 - 106. City council shall adopt estimates of income and expenditures.
 - 107. Unlawful to appropriate sums out of general funds, when.
 - 108. Appropriations after two months from beginning of fiscal year.
 - 109. Copy of estimates to be posted, etc.
 - 110. Unexpended balances of appropriations.
 - 111. No money shall be paid except by warrant, etc.
 - 112. Publication of statement of moneys received and expended.
 - 113. Inhabitants of city exempt from working public roads.
 - 114. This act declared to be a public act.
 - 115. Proof of ordinances, resolutions, etc., how made.
 - 116. City may institute suits without giving bond.
 - 117. This act shall not affect laws governing levy of school tax, etc., nor election and duties of school trustees.
 - 118. This act shall not suspend, etc., any penal law of the state.
 - 119. Additional territory not liable for certain debts.
 - 120. Jurisdiction, etc., conferred by this act shall supersede authority of any other municipal corporation.
 - 121. Emergency clause.

CHAP. 22.—[H. B. No. 636.] An act to incorporate the City of Austin, to grant it a new charter, and to extend its boundaries.

Section 1. Be it enacted by the Legislature of the State of Texas: That the inhabitants of the City of Austin, in Travis county and State of Texas, residing within the territory herein described, shall continue to be and are hereby constituted a body politic and corporate by the name and style of the City of Austin, and by that name shall have perpetual succession, and shall have all the rights, property, real, personal and mixed, immunities, powers, privileges, and franchises now possessed or enjoyed by said city or herein granted and be subject to all its preest liabilities, and may have a common seal, and alter the same at pleasure; and may sue or be sued, plead or be impleaded, in all courts of law and equity; may contract and be contracted with; may take, hold and convey, lease or acquire or dispose of any property whatever for corporation purposes within the city limits.

Sec. 2. That the boundaries of the city shall be as follows: Beginning on the bank of the Colorado river at the southwest corner of outlet No. 64, in division O, thence northerly in a straight line to the northwest corner of outlet No. 16, in division C, being the northeast corner of the Wells tract of land, northeast of the old Fair Grounds tract, thence northwesterly with the northeast line of said Wells tract and the State Lunatic Asylum grounds and the north boundary line of outlet 83, in division D, to the northwest corner of outlet 83, division D, thence southwesterly in a straight line to within ten varas of the Colorado river's ordinary water level (after completion of the dam now being constructed) due west of Cypress Springs, as said level has been determined by a line surveyed and marked under direction of the city authorities; thence up the east bank of the Colorado river within ten varas of said line so surveyed twenty-one miles by following the river; thence across said river at right angles a distance of ten varas from said water level line surveyed and marked on the west side of said river; thence down the Colorado river within ten varas of said surveyed line to a point 1440 varas above the upstream face of the said proposed dam now being constructed; thence north 75 degrees west 1152 varas; thence due south 1555 varas; thence north 87 degrees and 30 minutes east 556 varas more or less to the Colorado river one hundred yards below the lower part of the site of said dam; thence down the west bank of the Colorado river with its meanders to the mouth of Barton's creek; thence up Barton's creek on the west side thereof to a point due west of where the west line of the Isaac Decker league prolonged in its course northerly would intersect Barton's creek; thence easterly across Barton's creek to the western boundary line of said Decker league; thence southwesterly with the western boundary line of said Decker league, to the southwest corner of lot number thirty-four, in Bradley's subdivision of the Goodrich estate on said Decker league, being also the northwest corner of the D. P. Kinney tract on said Decker league; thence to the southwest corner of the H. J. Doughty tract on said Isaac Decker league; thence easterly in a straight line to the northeast corner of Mrs. E. V. Blum's 213 acre tract, being the southeast corner of the subdivision known as Southside; thence in a northerly direction with the east boundary line of said subdivision and the east boundary line of the Jno. D. McCall and D. C. Stone tracts to the centre of the channel of the Colorado river; thence down said river in a straight line to the place of beginning.

Sec. 3. That the city of Austin shall be divided into not exceeding eleven wards. The boundaries of the wards shall be fixed by the city council as soon as this act takes effect, and may be changed from time to time as the city council may see proper, having regard to the number of male inhabitants, so that each shall contain as nearly as may be, the same number; provided, that after the first general election under this act, no change in wards or boundaries thereof shall be made within six months next preceding a general election to be held in said city.

Organization and Procedure of the City Council.

Sec. 4. That the city council shall consist of a mayor and a board of aldermen who shall hold their office for two years from their installment, and until their successors are elected and qualified.

Sec. 5. That the board of aldermen shall consist of two members from each ward, who shall be residents thereof, to be chosen by the qualified voters of their respective wards.

Sec. 6. That there shall be an election held on the first Monday in December of each year to fill all vacancies occurring or to occur in the city council from the expiration of terms of office.

Sec. 7. That no person shall be a member of the city council unless he be a citizen of the State of Texas, and shall have resided within the city limits for six months next preceding his election, and shall have been a bona fide resident of the ward from which he is elected for at least thirty days preceding his election.

Sec. 8. That if any alderman shall, after his election, remove from the ward from which he is chosen, his office shall thereupon become vacant.

Sec. 9. That the city council shall be the judge of the election and qualification of its members and shall determine contested elections of all city officers made elective under this act, in such manner as may be provided by ordinance; provided, that no alderman nor the mayor shall be allowed to qualify or re-qualify, if he succeeds himself in office until at a session of the city council, to be held on or after the Saturday next succeeding the election, which shall in all cases occur on Monday, unless his opponent in the election or all opponents, if more than one, shall sooner file a statement with the city clerk that he or they will not contest the election of his or their opponents, naming him. If prior to the time for installing such newly elected mayor or aldermen, a contest of his election is filed in writing with the city clerk, stating the grounds for the contest, he shall not be installed until such contest is determined, nor shall the council elect the other city officers until such contests are determined; provided, that all contested elections shall be decided within fifteen days from the date of the election.

Sec. 10. That the majority of the city council shall constitute a quorum to do business, but a small number may adjourn from day to day and may compel the attendance of absent members by arrest or in such manner and under such further penalties as they may prescribe.

Sec. 11. That the city council may determine the rules of its proceedings, punish its members for a wilful violation of its rules or other disorderly behavior, and with the consent of two-thirds of the members elected, expel an alderman, but not a second time for the same offense.

Sec. 12. That the city council shall keep a journal of its proceedings and, whenever practicable, publish the same, or a synopsis thereof, in some newspaper published in the city; and the yeas and nays of the

members on any question shall, at the desire of any alderman present be entered on the journal.

Sec. 13. That upon the passage of all ordinances appropriating money, imposing taxes, increasing, lessening or abolishing licenses, and of ordinances for borrowing money, the yeas and nays shall be entered in the journal, but no ordinance for borrowing money shall pass, except by a vote of two-thirds of the whole council.

Sec. 14. That all ordinances and resolutions of a general character shall be read in the council on three separate days, unless two-thirds of the council elected shall dispense therewith.

Sec. 15. That a majority of the members of the whole council shall be necessary to pass an ordinance for any purpose appropriating the sum of five hundred dollars or upwards, or for passing an ordinance in anywise diminishing or increasing the city revenues.

Sec. 16. That aldermen shall receive as their compensation the sum of five dollars for attending each regular meeting of the city council; provided, the sum shall not exceed the sum of ten dollars per month, but no alderman nor the mayor shall, during the term for which he is elected, hold or be eligible to any other office under the city, nor shall any other alderman during his term of office, be interested directly or indirectly in any contract or agreement for work to be done or material furnished, or services to be performed, for which the city is to pay a consideration, or in the purchase or sale of any property by the city for any purpose whatever, and for the violation of any part of section sixteen the penalty shall be expulsion from office on an affirmative vote of two-thirds of the whole board of aldermen.

Sec. 17. That all vacancies that shall occur on the board of aldermen, except by expiration of terms of office, shall be filled in such manner as may be provided for by ordinance. Each alderman shall, before entering upon the duties of his office, take the oath prescribed by the constitution of the State of Texas, and that he will faithfully discharge the duties of his office.

Sec. 18. That at the first meeting of the city council after each general election, and after contest of election of aldermen, if any there be, are disposed of, the council shall elect one of their members president of the board of alderman, who shall hold his office for one year from the date of his election and until his successor is elected and qualified.

Sec. 19. That the president of the board of aldermen, in case of the absence of the mayor from a session of the council, [shall] act as presiding officer of the council.

Sec. 20. That in case of the death, resignation or inability to act, or absence of the mayor from the city, the president of the council shall perform all the duties of mayor.

Sec. 21. That in the absence of the mayor and of the president of the council, any alderman may be elected by the members present to preside, who shall exercise all the rights of the president of the council in such cases.

Sec. 22. That the president of the board of aldermen shall vote only as an alderman.

Sec. 23. That there shall be stated sessions of the city council at least once in each month and such special meetings as the mayor or any five members of the council may deem necessary.

Sec. 24. That calls for special meeting shall state the nature of the business to be transacted at the meeting, and shall be read to each alder-

man to be found in the city or if an alderman is out of the city a copy thereof left at the place of business of such alderman as may not be seen in person by the policeman of the City of Austin serving the notice, who shall report in writing to the council, at the hour set for the meeting, whom he has served and how he has served such notices and the reason for not serving each alderman in person. If it shall appear that two-thirds of the aldermen have been served personally the council may proceed to transact the business mentioned in the call, as if all the aldermen had been personally notified of the meeting. The said notice and return of the officer shall be recorded in the minutes of the meeting of the council, and shall be evidence of the nature of the call and the service of the notice thereof.

Sec. 25. That all ordinances and resolutions of a general character adopted by the city council and all acts of the council authorizing or making any contract, grants or concessions, whether such act be had or passed in response to petition or proposition or in any manner whatsoever, and irrespective of the form of such act, shall be subject to the veto of the mayor.

Sec. 26. That the mayor may veto any one or more of the items in an appropriation ordinance, and approve the remainder.

Sec. 27. That all ordinances, resolutions and acts of the council together with such papers as may pertain thereto, shall be placed in the office of the city clerk, and if the mayor approve thereof he shall endorse the same "approved," and sign his name to such endorsement, and thereupon such ordinances, resolutions and acts shall go into effect.

Sec. 28. That if the mayor shall fail to approve any such ordinance, resolution or act for a longer period than ten days after it shall be placed in the clerk's office, it shall go into effect unless he shall have within the said period signified his disapproval thereof, or of items of an appropriation ordinance, by written objections there filed with the city clerk for the consideration of the city council.

Sec. 29. That the vote by which any ordinance, resolution or act so disapproved by the mayor was passed, shall be reconsidered by the city council either at the next regular meeting thereof held after such disapproval is filed in the clerk's office, or at any special meeting called earlier for that purpose, and if after such reconsideration, two-thirds of the aldermen elected agree to pass such ordinance, resolution or act or items of an appropriation ordinance, it shall be in force, but not otherwise.

Sec. 30. That the style of the ordinances of the city shall be: "Be it ordained by the city council of the City of Austin."

Sec. 31. That every ordinance imposing a penalty, fine, imprisonment or forfeiture for violation of its provisions shall, after the passage thereof be published in every issue of a daily paper published in said city for ten days and shall not take effect until such publication has been completed. The city clerk shall note on such ordinances as are required to be published, the fact that the same have been published as required by the charter, and the date of such publication, which shall be prima facie evidence of such publication; provided, that the provision of this section shall not apply to such revision and codification of the ordinances of the city as the council may from time to time adopt.

Sec. 32. All other ordinances and resolutions shall take effect on being approved by the mayor or on the termination of the time allowed for vetoing ordinances without being vetoed unless another time for taking effect be fixed by the ordinance or resolution.

Sec. 33. That in case of a tie vote by the council the mayor shall have the casting vote.

General Powers of the City Council.

Sec. 34. That the city council shall have the care, management and control of the city and its property and finances, except as may be herein otherwise specially provided for; and shall have the power to enact and ordain any and all ordinances not repugnant to the constitution and laws of the State, and such ordinances to alter, modify or repeal.

Taxation.

Sec. 35. That the city council share [shall] have power within the city by ordinance, to levy and collect annual taxes not exceeding for any and all purposes including the taxes levied for the support of the public schools, two and one-half per cent of the property values of said city, as follows:

1. An annual tax, not exceeding one per centum upon all property within the limits of the city, made taxable by law for State and county purposes, the money raised by said taxes to be used for the current expenses and for the general improvement of the city or its property. 2. To raise such further amount as may be necessary to pay interest and two per cent sinking fund annually on all valid bonded debt of the city. 3. To raise money on the credit of the city for a special and definite purpose, by issuing bonds of the city or otherwise; provided, the bonded debt of the city shall only be increased by a special act of the Legislature, or by consent of two-thirds of the qualified voters in said city who pay taxes on property, real or personal, in said city. All persons owning property, real or personal, subject to taxation in said city on the first day of January next preceeding any election that may be held to obtain such consent shall be deemed to be persons who pay taxes on property in said city. Such election shall be ordered by the city council and notice thereof shall be given for at least thirty days by the mayor in such manner as shall be prescribed by the city council; provided, that whatever power the city council may have possessed or acquired under the charter in force in said city prior to the passage of this act through any election held under said charter to increase the indebtedness of said city is hereby continued and perpetuated in said council, and may be exercised under this act with the same effect that such power might have been exercised under said charter if this act had not been passed, and to no further extent, and with no further force or effect under this act than might have been done without the passage of this act; provided further, that lands within the limits of the city which have not been laid off into blocks and lots shall not be assessed or taxed otherwise than by the acre, and shall continue to be so assessed and taxed until laid off into lots and blocks by the owners thereof respectively, and the owners of such lands in laying off the same into lots and blocks shall so arrange the streets that they shall correspond as near as practicable with previously established streets of the city.

Sec. 36. That all such bonds shall specify for what purpose they were issued. Provision shall be made to pay the interest, and not less than two per cent annually of the principal, to redeem or pay the bonds.

Sec. 37. That neither the money for which such bonds may be sold, nor the money raised to pay the interest and sinking fund thereof, shall be used to divert to any other purposes, and the city treasurer shall not honor any draft drawn on said interest and sinking fund except to pay

the interest on said bonds or to redeem the same, except as hereinafter provided.

Sec. 38. That said sinking fund shall be invested whenever as much as one thousand dollars shall be accumulated, in interest bearing bonds of the United States or of the State of Texas or of the city of Austin.

Sec. 39. That the city council may and shall have full power to provide by ordinance for the prompt collection of all taxes levied, assessed, and due or becoming due to said city, and to that end may and shall enact all ordinances deemed necessary to the levying, imposing, assessing and collecting any of said taxes, and to regulate the mode and manner of making out tax lists and inventories and the appraisal of property thereon, and to prescribe the oath that shall be administered to each person on such rendition of property, and to prescribe when and how property shall be rendered and the taxes paid; and to fix the duties and define the powers of the assessor and collector of taxes.

Sec. 40. That all taxes due by property owners as appears upon the rolls of said city and upon rolls prepared and completed up to the first day of July, 1891, and not barred by the statutes of limitations, may be collected by suit from delinquents and foreclosure of the lien securing the same, in any court having jurisdiction; but no suit shall be brought for taxes assessed after the first day of July, 1891, except after the time set for sales of taxes as hereinafter provided.

Sec. 41. That the city council shall have full power and authority to provide by ordinance for the appointment of a board of equalization, and to regulate their duties, and to provide for notices to be given to taxpayers to appear before such board; and all the determinations of such board shall be final, unless an appeal is taken therefrom to the county court of Travis county, which may be done by any person, or the agent or attorney of any person, aggrieved at the action of the board, by giving notice in writing to said board of such appeal and the grounds thereof within five days after such board shall have concluded its labors and returned the tax lists to the office of the assessor and collector of taxes, and by giving a bond payable to the city, to be approved by the city assessor and collector, for the sum of fifty dollars, conditioned that said appellant will pay all the costs of such appeal if the action of the board of appraisers should be sustained by the county court, or if the valuation of the property of such appellant shall be raised above the amount at which it was assessed by said board of appraisers. A copy of such bond and such notice of appeal, and a description, made by the assessor and collector, of the property of the appellant involved therein shall be filed in said county court, and said case shall be docketed on the civil docket of said court in the name of appellant as plaintiff against the board of appraisers of the City of Austin, and all such appeals shall be prosecuted to the first term of the county court after the notice of appeal is given, and shall have precedence for trial of all civil cases in said court, and the decision of said county court in such matters shall be final. The lists of property and the values thereof as settled by the board of appraisers, or a copy thereof, or so much thereof as may be pertinent to the question at issue, may be produced in court to be used in such trials.

Sec. 42. That the city council shall have full power and authority to provide for seizure by the assessor and collector, and sale by him of any personal property for taxes due on personal property without the necessity of any writ, and such tax rolls shall be sufficient warrant for such seizure and sale by the assessor and collector of taxes; and to provide

by ordinance, that any firm, corporation or person owning or controlling property in said city subject to a tax, and failing or refusing to render a list, inventory or appraisement thereof, verified by affidavit, shall be liable to a fine upon complaint to the recorder, in such sum as such ordinance may provide, not exceeding two hundred dollars.

Sec. 43. That the city council shall have full power and authority to pass all ordinances necessary to regulate advertisements and sales by the assessor and collector of property upon which taxes may be unpaid, and to provide for the perpetuation of all proceedings with reference to such advertisements and sales and for execution of title to purchasers of property at tax sales, and to pass all ordinances necessary to enforce the collection of taxes; provided, that such ordinances shall allow any person whose real property has been sold for taxes at least two years from the date of the collector's deed to redeem the same by paying double the amount paid for the same; provided, that the city shall not bid in any real property sold for taxes; provided further, that any such proceeding so perpetuated shall be received in evidence in any court when the title so conferred by the collector shall be called in question.

Sec. 44. That at any time after the day set for tax sales the city may institute suit for the amount of such taxes due on such property as may not have been sold, and may foreclose the lien existing for such taxes, and penalties that exist in favor of the city, at the date of such sale, and the decree ordering such sale shall be so framed as to permit the redemption of said land as provided by the constitution of this State in Article 8, Sec. 13.

Sec. 45. That all property, real, personal or mixed, and all moneys and credits within the city, subject to taxation by the laws of this State, shall be subject to taxation by said city against the person who owned the same on the first day of January of each year for which a tax is levied.

Sec. 46. That the city council shall have power to levy and collect an annual occupation tax on all occupations, callings and professions taxed by the State from time to time to the amount of one-half of the occupation tax levied by the State and shall have power to provide adequate means and penalties for enforcing collection of same.

Sec. 47. That the city council shall have the power to provide by ordinance for the assessing and levying of the taxes aforesaid, and to determine when taxes shall be paid.

Sec. 48. That no money shall be paid by the city upon any account whatever, to any person or corporation, who is in arrears to the city for taxes due.

Sec. 49. That all assessments made upon landed property shall be a special lien thereon; and all property both real and personal, belonging to any delinquent taxpayer, shall be liable to seizure and sale for the payment of the taxes due by such delinquent on said property and such property may be sold for the payment of the taxes due by such delinquent on the same, and no attempt to collect such taxes shall in any way waive or invalidate such lien.

Streets and Sewers.

Sec. 50. That the city council shall have the exclusive control and regulation of all streets, alleys, sidewalks and highways within the corporate limits of the city and shall have power: 1, to abate and remove encroachments thereon in summary manner; 2, to put drains and sewers therein,

and, when necessary, to appropriate private property for that purpose, to be condemned according to the laws relating to condemnation of property by railroad corporations, the city occupying the place of the railroad corporations in such cases; 3, to permit and regulate the laying of gas and water mains therein, and the erection of telegraph and telephone and electric light poles therein; 4, to regulate, establish and change the grade of all sidewalks, streets and alleys, and to require and compel the cutting down or filling up and raising of such streets, sidewalks and alleys; 5, to construct, regulate, and keep in repair all culverts, sewers and crossings, and to control and regulate the use of the same; 6, to construct, regulate and keep in repair all necessary sidewalks and footways and streets; 7, to grade, cut down and fill up the same; 8, to regulate the use of the same, and abate and remove encroachments and obstructions thereon and to compel the removal of same; provided, that whenever the city council has once established a grade for any street, sidewalk, alley or park, and any owner of property abutting thereon has improved such property to conform to such grade, then the council shall not have authority to change such grade, except by consent of a majority of the owners by feet frontage of the property in front of which it is proposed to change such established grade.

Sec. 51. That the city council shall fix and determine the nature and extent of all sidewalks, streets, drainage and sewerage improvements and decide as to the kind of material to be used.

Sec. 52. That there may be appointed by the city council five citizens of Austin who shall constitute a board of street and sewer commissioners. They shall hold office until the next general election, and shall act gratuitously. The board shall be allowed, however, the sum of five hundred dollars annually, or such portion of the same as they may require to cover expenses, if any, which they may incur in performing the duties of their office.

Sec. 53. That it shall be their duty to prepare and recommend to the city council comprehensive plans for sidewalks, streets, sewers and drainage improvements, including the material to be used, and all other matters pertaining to the construction of the improvements.

Sec. 54. That all matters involving an outlay of as much as five hundred dollars pertaining to any improvement of the character above mentioned shall first be referred to them, and an interval of not less than ten days after such reference is formally made by the city council shall be allowed them in which to report upon the same to the said council; and it shall be their duty to examine, pass upon and report to the city council all plans and specifications relating to such improvements, before the same are finally approved by the city council.

Sec. 55. That they shall also pass upon all bids received on matters relating to said improvements, and recommend such action in reference to the same to the city council as they may deem expedient. They shall also examine and pass upon all street work for the city where the contract exceeds five hundred dollars; and such work shall not be accepted by the city council, until their report upon the same has been made to the city council, or until after the expiration of fifteen days from the time when the matter shall have been referred to them.

Miscellaneous Powers of the City Council.

Sec. 56. That the city council shall elect, on the nomination of the mayor or any alderman, all officers of the city, except the mayor, alder-

men and board of school trustees. The election of said officers of the city, to be elected by the council shall be at the first regular meeting or at any called meeting for that purpose after the general election of the mayor, or at any time thereafter; provided no election of officers by the council shall occur until after the time for filing contests for elections of aldermen, as provided for in this act, shall have expired, or until contests have been waived, as provided for in this act, and not until after the termination of any contest of election of aldermen.

Sec. 57. That the city council shall have power by ordinance:

1. To make regulations to prevent the introduction or spreading of any contagious disease within the city; to make quarantine ordinances for that purpose, and to enforce them within the city and within ten miles thereof, and to enforce vaccination, and to establish hospitals and make regulations for the government thereof within and without the city limits, and to make and enforce all other necessary regulations to secure the general health of its inhabitants.

2. To establish or erect, or cause to be established or erected, markets and market houses; to designate, regulate and control market places and privileges, and to inspect within or beyond the city limits, and determine the mode of inspecting cattle, meats, birds, fowls, fish, vegetables, fruit, milk, and to seize and destroy any decayed or unwholesome fruit or vegetables, any impure or unhealthy or unwholesome meats, birds, fowls or fish, and to regulate, license, control or prevent the sale or keeping for sale on public streets, squares and alleys of any article of food or drink or any goods, wares or merchandise of any kind whatever.

3. To define what shall be a nuisance in the city and to punish the authors thereof by penalties, fines and imprisonment.

4. To do all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of disease.

5. To co-operate with the commissioners court of Travis county in making such improvements connected with the city and county as may be deemed by the city council and commissioners court necessary to improve the public health and to promote efficient sanitary regulations; and by mutual agreement they may provide for the construction of such improvements, and the payment therefor.

6. To regulate the burial of the dead and to prohibit public funerals in case of death from any contagious or infectious disease; to purchase, establish and regulate one or more cemeteries within or without the city limits; to regulate the registration of marriages, births and deaths; to direct the returning and keeping of bills of mortality, and to impose penalties on physicians, ministers, sextons and others, for any default in the premises.

7. To provide for the erection of all needful buildings for the use of the city within its limits and to determine when it is necessary to acquire property, or the use thereof, by the power of eminent domain for all purposes for which the city may lawfully exercise such power.

8. To license and regulate auctioneers, grocers, merchants, retailers, hotels and boarding houses, and bakeries; and to license and regulate or suppress ordinaries, hawkers, peddlers, brokers, pawnbrokers and money changers.

9. To license and regulate hacks, carriages, omnibuses, wagons, carts and drays, and fix the rate to be charged for carriage of persons and for wagonnage, cartage and drayage of property.

10. To license and regulate theatrical and other exhibitions, shows and amusements.

11. To license and regulate billiard tables, restaurants, drinking houses or saloons, and all places or establishments where intoxicating or fermented liquors are sold, and to regulate their location and to restrain and suppress street beggars, disorderly houses, lotteries and all fraudulent devices and practices.

12. To suppress gaming and gambling of all kinds and descriptions and to prevent the same.

13. To prohibit bawdy houses, houses of prostitution and assignation houses and to punish prostitutes and keepers of houses of prostitution within the city.

14. To provide for the prevention and extinguishment of fires, and to organize and establish fire companies; also, to regulate, restrain and prohibit the erection and repair and maintenance of wooden buildings in any part of the city, and to declare all wooden buildings which they may deem dangerous on account of fire, nuisances, and require the same to be removed in such manner as the council may direct.

15. To regulate and prevent the carrying on of manufactories dangerous in causing or producing fires; to appoint fire wardens and property guards, with power to remove and keep away from the vicinity of any fire any suspicious persons lurking near the same, and to compel any person or persons present to aid in extinguishing the fire, or in the preservation of property exposed to the same, and to prevent goods from being purloined thereat; and with such other powers and duties as may be prescribed by ordinance.

16. To compel the owners of houses and other buildings to have scuttles upon the roof of any such buildings or houses, and stairs and ladders leading to the same.

17. To create a board of fire commissioners.

18. To regulate and describe the manner of building partition and parapet walls and of partition fences.

19. To establish standard weights and measures, and to regulate the weights and measures to be used in the city in all cases not otherwise provided for by law.

20. To provide for the inspection of lumber, the measurement thereof and other building materials.

21. To provide for the inspection and weight of hay, the measure of charcoal and other fuel to be used in the city.

22. To regulate and prescribe the duties and powers and compensation of all officers and employes of the city in accordance with the limitations of this charter and to require bonds from them.

23. To create such offices and employ such agents as they may deem necessary for the good government and interest of the city, and to change or prescribe additional duties of all such officers and agents; provided, that the compensation of officers and employes shall not be increased nor diminished during their term of office.

24. To provide for the taking of an enumeration of the inhabitants of the city.

25. To provide for the removal from office of any person holding an office created by this act or by ordinance, not otherwise provided for.

26. To fix the compensation and regulate the fees of all jurors and witnesses; to impose fines, forfeitures and penalties for the breach of any ordinance, and to provide for the recovery and appropriating of such

finer and forfeitures, and the enforcement of such penalties; provided, that no penalty shall exceed a fine of two hundred dollars and imprisonment not exceeding fifteen days for any one offense.

27. To erect a workhouse and prisons and a house of correction, and to provide for the regulation and government thereof.

28. To regulate and license all ferries and toll-bridges within the limits of the city, except that portion of the Colorado river above the point where the northern boundary corporate line of the city calling to run westwardly, would intersect the Colorado river, if prolonged westwardly, nor shall any ordinance be enforced prohibiting hunting or fishing on said portion of the river.

28. [29.] To prevent and restrain any riot, disturbance or disorderly assembly in any street, house or place in the city.

30. To use, regulate, improve, grade and control all grounds owned by the city within its limits.

31. To regulate the size, number and manner of construction of doors and stairways of theatres, tenement houses, audience rooms, public halls, and all buildings used for the gathering of large numbers of people, whether now built or hereafter to be built, so that they may be convenient, safe and speedy exits in case of fire.

32. To require the construction of suitable fire escapes on or in hotels, lodging houses, factories and other buildings, whether now or hereafter to be built.

33. To authorize one or more officers, agents or employes of the city to enter into and upon all buildings and premises for the purpose of examining and discovering whether or not the same are dangerous on account of fire, or in an unclean state, and cause the defect to be remedied and filth and trash to be removed; and generally the council shall have the power to establish such regulations for the prevention and extinguishment of fires as it may deem expedient.

34. To prevent, prohibit, and suppress horse racing, immoderate riding or driving in the streets; to prohibit and punish abuse of and cruelty to animals of every kind; to compel persons to fasten their horses or animals attached to vehicles or otherwise, while standing or remaining in the streets or other public places.

35. To prohibit the rolling of hoops, flying of kites, firing of firecrackers or fireworks of any kind, or any other amusement having a tendency to annoy persons passing in the streets or on the sidewalks; to restrain and prohibit the ringing of bells, the blowing of horns, whistles or bugles, the crying of goods, and all other noises, practices and performances tending to collect persons on the streets or sidewalks by auctioneers and others for the purpose of business or otherwise.

36. To prevent all boxing matches, sparring exhibitions, cock fighting and dog fighting, and punish all persons making such exhibitions.

37. To regulate and prevent drumming on the streets or sidewalks, railroad platforms or other public places.

38. To require the owners of private drains, sinks and privies, to fill up, clean, drain, relay, alter, repair, fix and improve the same as they may be ordered by resolution or ordinance so as to prevent the same being or becoming nuisances, and to impose penalties on persons not doing the same; and if there be no person in this city upon whom such order can be served, the city can have the work done, and the cost of the same shall be a lien on the property, taxed up against and collected in such manner as the city council may direct.

39. To build, own and operate street railroads within or beyond the city limits.

40. To preserve order and prevent noise and confusion in and about the several depots on the arrival and departure of trains, and to make and regulate stands for vehicles at said depots or other public places.

41. To prohibit and regulate the driving of cattle or other animals through the streets of the city.

42. To inspect the construction of all buildings in said city and to compel the connection of all buildings with sewers when such buildings are in a sewerage district where sewers are in operation.

43. To regulate and locate the erection of all poles in the city, and cause the same to be changed, whether telegraph, telephone, electric light or otherwise.

44. To regulate the speed of locomotives, engines and other cars and vehicles in the city.

45. To direct and control the laying of railroad tracks, turnouts and switches, and require that they be constructed and laid so as to interfere as little as possible with the ordinary travel and use of the streets, and to require that they be kept in repair.

46. To erect, construct, build and operate a water and electric light system to supply the city and its inhabitants with water and electric light by constructing and maintaining a reservoir of water in and about the channel of the Colorado river, within and without the city limits, by erecting a dam across the same where such dam is now being constructed, to serve as a reservoir and to furnish power to operate an electric light system, and to build such other reservoir as may be necessary at such an elevated point within or without the limits of the city as may be necessary to supply the higher portions of the city with water. That for the purpose of constructing such water and light system the city shall have power to take, hold and acquire such property within or without the limits of the city as may be necessary for the city to obtain in order to build such system or any part thereof but no property shall be taken, overflowed with water or otherwise damaged, by the city within or without the limits for such purpose without the consent of the owner thereof, except by due process of law, and upon making adequate compensation for property so taken, damaged or overflowed. When the owner of property which will be overflowed or damaged by the construction of such system of water and light works, or which it may be necessary for the city to acquire, can not agree with the city as to the amount to be paid for injury to property or for overflowing the same, or the price which the city should pay to acquire such property, the city may condemn such property as it may be necessary for it to acquire for such purposes and have the damages assessed which the city should pay for injury to property to be overflowed by water or otherwise injured in the manner that railroad corporations are now or may from time to time be authorized to condemn property, and may in like manner have the damages to be paid for property injured or overflowed assessed and established the city occupying the place of the railroad corporation in such proceedings.

47. To regulate the use of locomotive engines; and to direct and control the location of cables and all other railroad tracks, and all steam railroad tracks, and to require railroad companies of all kinds to construct, at their own expense, such bridges, turnouts, culverts and crossings, as the city council may deem necessary.

48. To regulate the speed of all railroad trains in the city limits, and

their stops at the street crossings, and require said companies to keep the streets through which they run in repair.

49. To regulate the running of horse railroad cars, or cars propelled by dummy engines or other power, and laying down tracks for the same, the transportation of passengers thereon, the form of rails to be used.

50. To establish and regulate public pounds, and to regulate and prohibit the running at large of horses, mules, sheep, swine, goats, geese, dogs, and other animals; and to authorize the distraining, impounding and sale of the same for the costs of the proceedings and the penalty incurred, and to order their destruction when they can not be sold, and to impose penalties on the owners or harborers thereof for violation of any ordinance.

51. To provide for the holding of election by the people, and to regulate the manner of holding the same; and every male inhabitant of the city qualified to vote for State and county officers in Travis county, who shall have resided six months in the limits of the city, shall be qualified to vote for city officers under this act.

City Officers—The Mayor.

Sec. 58. That there shall be a mayor of said city [who] shall be elected by the voters of the city on the first Monday in December, 1891, and on the first Monday in December every two years thereafter, and who shall hold his office for the term of two years from the time of his election and until his successor shall have been elected and qualified. The mayor shall be the chief executive officer of the city. The mayor shall receive no salary or fees except the sum of six hundred dollars per annum, payable monthly, which shall be allowed him for the reimbursement of the expenses incident to or growing out of his position.

Sec. 59. That no person shall be mayor who at the time of his election is not possessed of the qualifications required for an alderman, or who holds any lucrative office under the authority of the United States or any state; he shall before entering upon the duties of his office take the oath prescribed by the constitution of the State, and to faithfully and impartially perform his duties.

Sec. 60. That when two or more persons shall have an equal number of votes for the office of mayor, a new election shall be ordered, except when the election is contested, and whenever an election for mayor is contested, the city council shall determine the same.

Sec. 61. That whenever any vacancy shall happen in the office of mayor within three months of the time for holding a general election in the office of mayor, it shall be filled by election by the city council of some person not a member of the council, in which case such mayor shall hold office for the unexpired term of office only; vacancies in the office of mayor occurring more than three months before a general election shall be filled by a special election by the qualified voters of the city.

Sec. 62. That the mayor or any other officer of the city may be removed from office for any malfeasance in office by a majority of two-thirds of the full board of aldermen, after trial and conviction. The council shall be the judge of what shall constitute malfeasance in office.

Sec. 63. That the mayor shall sign the commissions and appointments of all persons elected by the city council.

Sec. 64. That the mayor shall cause all subordinate officers to be dealt with promptly for any neglect or violation of duty, and he may suspend, and by and with the consent of two-thirds of the whole board of alder-

men, remove from office any person holding office made elective by the city council by this act, or hereafter created by ordinance. He shall have power, when he deems it necessary, to require any officer of the city to exhibit his accounts or other papers; it shall be his duty to make report to the council, in writing, regarding any error or deficiency he may discover in said accounts and papers.

Sec. 65. That the mayor shall preside at all the meetings of the city council, except as herein otherwise provided, and shall have a casting vote when the council is equally divided and not otherwise.

Sec. 66. That the mayor shall from time to time communicate to the city council information and recommend such measures as in his opinion may tend to the improvement of the finances, health, security, ornament and general prosperity of the city.

Sec. 67. That the mayor shall take care that the laws of the State and the ordinances of the city are duly enforced, respected and observed within the city, and he is hereby authorized to call on every male inhabitant of the city over eighteen years of age and under the age of fifty years, to aid in enforcing the laws and ordinances of the city, and any person who shall not obey such call shall forfeit to the city a fine not exceeding two hundred dollars.

Sec. 68. That the mayor, by and with the consent of the council, shall have power to remit fines and forfeitures, and to grant reprieves and pardons for all offenses arising under the ordinances of the city.

Sec. 69. That the mayor shall have power to solemnize marriages and to administer oaths of office.

Sec. 70. That in case of the temporary absence or illness of the recorder, or in case of vacancy in the office of recorder, the mayor shall be ex-officio recorder, to try all cases of violation of the city ordinances, and it shall be his duty to do so, unless such vacancy, temporary or otherwise, shall have been filled as provided in this act.

Other Officers.

Sec. 71. That there shall be a city marshal, a city clerk, a city attorney, a city assessor and collector, a city physician, a treasurer, a recorder, a city engineer, a superintendent of streets, and such other officers, agents and employes of the city as may be now or hereafter provided for by the city council by ordinance. The terms of the officers mentioned in this act shall be for two years from the first Monday in December of the year of their election. They shall be elected by the city council, as soon as may be after the first Monday in December, every two years. They shall hold their offices until their respective successors are elected and qualified.

City Marshal.

Sec. 72. That the marshal of the city shall be ex-officio chief of police, and he shall either in person or by deputy attend upon the recorder's court while in session, and upon meetings of the city council, and shall promptly and faithfully execute all writs and process issued to him. He shall have like power with the sheriff of the county to execute the writ of search warrant. He shall be active in quieting riots, disorders, and disturbances of the peace within the limits of the city, and shall take into custody all persons so offending against the peace of the city, and shall have authority to take suitable and sufficient bail for the appearance before the recorder's court of any person charged with an offense against ordinances or laws of the city. It shall be his duty to

arrest without warrant all violators of the public peace, and all who obstruct or interfere with him in the execution of the duties of his office, or who shall be guilty of any disorderly conduct or disturbance whatever in his presence, or upon complaint of any citizen. To prevent a breach of the peace or preserve quiet and good order, he shall have authority to close any theatre, bar-room, drink-house or any other place or building of public resort, and in the prosecution and suppression of crime and arrest of offenders he shall have, possess and exercise like power, authority and jurisdiction as the sheriff of the county under the laws of the State. He shall receive a salary of fifteen hundred dollars per annum, payable in monthly installments. He shall give a bond payable to the said city, with good security, conditioned for the faithful performance of his duties in accordance with the charter and ordinances of the city, and in such amount as the city council may require, said bond to be approved by the city council. He shall perform such other duties and possess such other powers, rights and authority as the council may by ordinance require and confer.

City Clerk.

Sec. 73. That it shall be the duty of the city clerk to attend all meetings of the city council and to keep accurate minutes of the proceedings thereof in a book to be provided for that purpose, to preserve and keep in order all books, papers, documents, records and files of said council, to countersign all commissions and licenses issued by the mayor, and to keep a record of them, and to draw all warrants on the treasurer, and countersign the same, and to keep accurate accounts thereof in a book provided for that purpose.

Sec. 74. That he shall have the custody of all ordinances of said city, and of all seals of the corporation, and shall only affix the same to the obligations of the city by order of the proper authorities of the city.

Sec. 75. That the city clerk shall perform such other and further duties as may be required of him by the council, by resolutions, ordinances or otherwise, and give such bond as the city council may prescribe.

Sec. 76. That he shall receive an annual salary of fifteen hundred dollars, payable monthly.

City Attorney.

Sec. 77. That the city attorney shall be a regular licensed lawyer who shall have received his license to practice law in this State more than five years before his election. He shall attend to all cases in any court in this State wherein the city may be a party in interest, unless the council otherwise provides. He shall draw all ordinances when requested to do so by the mayor or any alderman and inspect and advise upon all papers and documents involving any interest of the city. He shall be the legal adviser of the mayor, the city council, or any committee or board of the city, and of all city officers and authorities upon all legal questions touching their official duties.

Sec. 78. That the city attorney shall receive an annual salary of fifteen hundred dollars, payable monthly, and shall receive such fees as the council may allow, and shall perform such duties as the council may direct. He may employ an assistant at a salary of not exceeding five hundred dollars per annum to represent him in the recorder's court and elsewhere.

The City Engineer.

Sec. 79. That the city engineer shall inspect and pass upon the construction of all the public works ordered by the city council, and make

out plans, specifications, and estimates therefor; he shall do the surveying and engineering ordered by the city council; he shall preserve all plans, maps, notes, surveys, books, papers and documents and other things pertaining to his office, made by him or in his charge, and deliver the same to his successor in office.

Sec. 80. That the city engineer shall have such power, and perform such other duties as may be prescribed by the council by resolutions, ordinances or otherwise.

Sec. 81. That he shall receive as compensation the sum of twelve hundred dollars per annum payable monthly, and is prohibited from receiving a fee from any private person for giving the grade and lines of streets, alleys, sidewalks, and locations and grades and sewers.

City Assessor and Collector.

Sec. 82. That the city assessor and collector shall assess and collect the city taxes and occupation license, and shall pay the same over to the city treasurer promptly as collected, taking duplicate receipts therefor, one of which he shall retain and the other he shall return to the council. He shall, monthly or oftener if required, make a detailed report to the city council of all collections made by him.

Sec. 83. That he shall be vigilant and see that no business is carried on without the license or occupation tax due therefor shall have been first paid. He shall be responsible for all acts of his deputies; he shall be vigilant in collecting all delinquent taxes, and enforce their collection as herein provided, and as may be provided by ordinance. He shall give bond in such amounts and in such form as the council may prescribe with good and sufficient securities.

Sec. 84. That the council may require a new bond, if in their opinion the existing bond is insufficient, and whenever such bond is required, he shall perform no official act until such bond shall have been approved.

Sec. 85. That he shall receive as compensation the sum of eighteen hundred dollars a year, payable monthly, exclusive of the salaries of assistants and deputies.

Sec. 86. That he shall have all the powers and perform all the duties herein provided, and such others as the council may confer and prescribe.

Treasurer.

Sec. 87. That the city treasurer shall give such bond or bonds as may be required, conditioned for the faithful discharge of his duties. He shall receive and keep all money belonging to the city, and make all payments of the same upon warrants of the mayor, attested by the city clerk.

Sec. 88. That he shall render a full and correct statement of his receipts and payments to the city council at their first regular meeting in every month, and at such other times as the council may require. He shall perform such other acts and duties as the council may require, and receive an annual salary of six hundred dollars, payable monthly.

The Recorder.

Sec. 89. That the recorder shall be the chief judicial magistrate of the city, and as such shall hold a court within said city by the name of Recorder's Court of the City of Austin, which said court shall have jurisdiction and cognizance of all misdemeanors, breaches of the peace, infractions of the ordinances, and all other charges arising under the ordinances of the city, subject however, to an appeal to the county court in the same manner as appeals are taken and granted from justice's courts to the county court under the general laws of the State.

Sec. 90. That the recorder may require of any person arrested under this act, or the ordinances of the city, a bond to keep the peace, with two good and sufficient securities, which bond shall be payable to the city of Austin. He shall have full power and authority to issue subpoenas for witnesses and compel their attendance by process of attachment. He may issue warrants of arrest, search warrants, executions and any other process known to law that justices of the peace of this State may lawfully issue, and he may punish all contempt by fines and imprisonment or both.

Sec. 91. That he shall have full power power to administer official oaths and all other oaths or affirmations and give certificates thereof. The recorder shall be ex-officio justice of the peace, and shall possess and exercise within the city limits in criminal cases in all the powers and duties of such offices, but in no case shall he entertain jurisdiction in civil suits.

Sec. 92. That the recorder shall be conservator of the peace, and his court shall be open every day except Sunday and legal holidays, to hear and determine any and all cases cognizable before him, and shall have power to bring parties before him forthwith for trial. Parties arraigned for violation of city ordinances, demanding a trial by jury, shall deposit with the court the sum of three dollars security for the payment of the cost of such jury, unless they shall make oath that they are unable to pay or secure the same; any person convicted of an offense under the provisions of this act or the ordinances of the city shall be punished as may be prescribed by ordinance, not to exceed the punishment which the Legislature may lawfully authorize a recorder of a city to impose.

Sec. 93. That the recorder shall perform such other duties as may be prescribed by any ordinance of the city, and shall receive a salary of not exceeding fifteen hundred dollars.

Sec. 94. That the recorder shall be a licensed lawyer, and competent to discharge the duties required of him by the charter and the ordinances of the city.

Sec. 95. That the fines imposed in the recorder's court for violation of the city ordinances shall not be less than five dollars, nor more than two hundred dollars for each and every offense, and no cost shall be taxed against any person convicted therein.

Street Superintendent.

Sec. 96. That there shall be a superintendent of streets elected by the council at the time other city officers are elected. He shall hold his office for the term of two years and until his successor has been elected and qualified; provided, that the present street commissioner shall be superintendent of streets until the next general election.

Sec. 97. That he shall receive a salary of not exceeding fifteen hundred dollars per annum, payable monthly.

Sec. 98. That the superintendent in the absence of direction from the board of street commissioners, or from the council or city engineer, shall, with the advice of the mayor have general supervision of all work on the streets and bridges of the city within such limit of expense as the council may prescribe.

Sec. 99. That he shall perform such other duties as the city council may from time to time prescribe.

General Provisions.

Sec. 100. That the city council shall have power, subject to the restriction herein contained, to make all ordinances which shall be necessary

and proper for carrying into effect the powers specified herein; provided, that the council shall have no power to prohibit the owners of property abutting on the Colorado river from fishing in the river and resorting thereto for water, and having access thereto for themselves and stock.

Sec. 101. That all ordinances of the City of Austin and rules and regulations of the city council and other departments of the city, which shall be in force when this act takes effect, and which are not in conflict with the same, shall remain in full force and effect, until amended, altered or repealed by the city council.

Sec. 102. That all members of the council and other officers of the city, shall continue in office until the expiration of the time for which they were elected, respectively, and until their successors are elected and qualified.

Sec. 103. That the fiscal year of the city shall be from and including the first Tuesday in December in each year to and including the first Monday in December of the next succeeding year; and all receipts of money during such fiscal year shall be regarded as funds belonging to such year whether collected from the taxes or other dues of a previous year or not, and all taxes and other dues remaining due and uncollected at the expiration of one fiscal year, shall be regarded as resources of the next succeeding fiscal year.

Sec. 104. That the receipts of money during any fiscal year, other than from special funds provided to pay interest and sinking funds on bonds of the city, shall be applied to the payment of expenses and indebtedness incurred during such fiscal year; and no debt other than such as may be authorized by a vote of taxpayers, as is provided for in this act, shall be incurred, to be paid after the end of the fiscal year in which it may be incurred.

Sec. 105. That no contract shall be made involving the payment of money by the city after the termination of the fiscal year in which it is made, except for constructing public works or other improvements, which in the judgment of the council, cannot be practically completed before the end of the fiscal year; but no contract made for such public works or improvements shall in any event involve the payment of a greater sum, after the close of a fiscal year in which such contract is made, than may be paid out of the fund belonging to such fiscal year, and in all such cases an appropriation shall be made out of the funds of the pending fiscal year for the payment of the amount the city will become liable for if such contract is performed; such appropriation shall be made at the time such contract shall be executed, or the contract shall not be valid; provided, that this section shall not apply to the expenditure of any special fund raised by the issuance of bonds for special purposes.

Sec. 106. That in order to make these restrictions effective, the council shall, within two months after the beginning of each fiscal year, and after the salaries of officers and regular employes shall have been fixed for the year, cause to be made, an[d] shall adopt, an estimate of the probable income from all sources which will be collected for the general fund during the fiscal year, and of the expenditures to pay salaries and wages of officers and regular employes, and of the amount required to meet the other ordinary expenses of the city government, not including work on streets and bridges or other public improvements; said estimates shall be spread upon the minutes of the council when adopted,

any [and] may be amended when the city council may deem them incorrect.

Sec. 107. That after the adoption of said estimates, it shall be unlawful for the city council to so appropriate sums out of the general funds as to reduce the general fund below an amount, which, if said estimate be taken as correct, will pay the said estimated expenses of the city government for the pending fiscal year.

Sec. 108. That after two months from the beginning of any fiscal year no appropriation shall be made for any purpose other than to pay the regular salaries of officers and employes and expenses of the hospital, without such estimate of the council being in force, as provided for in this act.

Sec. 109. That the city clerk shall keep posted, in a conspicuous place in the council room, a copy of the estimates provided for in the preceding sections, and shall note in connection therewith the aggregate of each appropriation ordinance affecting the general fund, passed by the council, after the same takes effect.

Sec. 110. That unexpended balances of appropriations remaining after the purposes for which they were made have been accomplished or abandoned, shall be reported to the city clerk by the committee or officers of the city having the subject in charge, and when so reported said unexpended balance of appropriations shall be noted in connection with said estimates so posted in the council room.

Sec. 111. That no money shall be paid out of the city treasury except by a warrant, signed by the mayor and attested by the city clerk.

Sec. 112. That the city council shall cause to be published, within a month after the end of each fiscal year, a full, complete and detailed statement of all moneys received and expended, classifying each receipt and expenditure under its proper head.

Sec. 113. That the inhabitants of the City of Austin are hereby exempted from working on public roads beyond the limits of the city.

Sec. 114. That this act is declared a public act and may be read in evidence in all courts of law and equity in this State without proof.

Sec. 115. That the ordinances, resolutions and by-laws of the city council may be proved prima facie by a book of printed ordinances of the city appearing to be printed by the authority of the city or by copies of ordinances certified by the city clerk to be true copies of such ordinances, or the record thereof.

Sec. 116. That the City of Austin may institute and prosecute suits without giving security for costs, and may appeal from judgments without giving super-sedeas or cost bonds.

Sec. 117. That this act shall not be construed to affect in any manner the general laws governing the levying of taxes for public schools in cities, or to affect the action taken or status required by the City of Austin thereunder, or the title to school property, the control of school funds and money, or the election of the board of school trustees as now established, or to affect the continuation in office of the present school trustees of the City of Austin; and the election of the board of school trustees shall be as heretofore in said city, and their powers and duties shall remain as under the existing laws.

Sec. 118. Nothing herein contained shall ever be construed to in any manner suspend, modify or abridge any penal laws of this State, but the penal laws of this State shall ever be in full force and effect, and in no manner repealed or suspended by any provision of this act, but the

council may enact any ordinance not in conflict with the penal laws of this State.

Sec. 119. That the additional territory added to the City of Austin and not heretofore embraced within the corporate limits of Austin shall not be charged with or liable for any debts of the City of Austin incurred prior to the first day of May, A. D. 1890.

Sec. 120. That the jurisdiction and powers conferred on the City of Austin by this act shall supersede the authority of each and all other municipal corporations heretofore exercising any authority over any part of the territory included within the boundaries of the City of Austin as prescribed by this act.

Sec. 121. That the fact that Austin without this act has not sufficient power of eminent domain to enable her to progress with her important water and light system now in progress of construction, without the speedy grant of which power she is in danger of suffering great loss from delay, creates an imperative public necessity and emergency authorizing the suspension of the constitutional rule requiring bills to be read on three several days and requiring that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act originated in the House and passed the same by a vote of 78 yeas and 1 nay; and passed the Senate by a vote of 24 yeas and no nays.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 3d day of April, A. D. 1891, but was not signed by him nor returned to the house in which it originated with his objection thereto; nor were any objections thereto filed by him in this office after adjournment of the Legislature, within the time prescribed by the constitution. This act thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

MISSOURI, KANSAS AND TEXAS RAILWAY COMPANY.

Preamble.

Sec.

1. Said company authorized to sell its railway properties, etc., to some railway corporation or company, etc.
2. Sales to the Missouri, Kansas and Texas Railway Company approved.
3. Sale herein authorized to be subject to liens, etc., contracted by the Missouri, Kansas and Texas Railway Company.

Sec.

4. Purchasers of said lines may form a corporation.
5. List of roads authorized to be sold.
6. The lines of railway when sold may be operated by the new company.
7. Courts shall take judicial notice of this act.
8. Emergency clause.

CHAP. 23.—[S. B. No. 295.] An act to authorize the sale and conveyance of the Missouri, Kansas and Texas Railway Company's lines of railroad and properties within this State and certain lines of railroad heretofore operated by or as the property of the Missouri, Kansas and Texas Railway Company, or as a part of the system of roads within the State known as the Missouri, Kansas and Texas Railway and to provide for and authorize the sale, transfer and conveyance of said lines of railroad to, and the purchase and operation thereof by a single corporation, company or association of persons to be incorporated under the laws of this State, and to settle and dispose of certain pending suits, brought by the State of Texas against said Missouri, Kansas and Texas Railway Company, wherein the powers, privileges and franchises granted it within the State are sought to be forfeited.

Whereas, the Missouri, Kansas and Texas Railway Company, a corporation organized under the laws of the State of Kansas was, by an act of the Legislature of the State of Texas, entitled "An act in relation to the Missouri, Kansas and Texas Railway Company, late Union Pacific

Railway Company, Southern branch," passed August 2nd, 1870, granted certain rights, powers, privileges and franchises within this State; and,

Whereas, said Missouri, Kansas and Texas Railway Company, in pursuance of said act, and of the rights, powers, privileges and franchises claimed thereunder, has in its own corporate name constructed several lines of railway within this State, and by its managers, owners and stockholders has also aided, promoted, constructed or caused to be constructed other lines of railroad within this State, in the names of corporations created and formed under the laws thereof, in or to which lines it has acquired rights and interests and which have been heretofore held and operated by, or as the property of the Missouri, Kansas and Texas Railway Company or as a part of the system of roads within the State known as the Missouri, Kansas and Texas Railway; and

Whereas, there are pending suits against said Missouri, Kansas and Texas Railway Company, brought by and in the name of the State of Texas, to forfeit the corporate rights, powers, privileges, and franchises, granted by the act of the Legislature thereof, passed August 2nd, 1870, as aforesaid, because of the exercise of rights, powers and privileges alleged not to have been given or conferred by said act; and,

Whereas, the said lines of railway herein mentioned or referred to, and which are hereinafter more particularly described are not parallel or competing lines, but were constructed by and in the common interest of the owners, managers and stockholders of said Missouri, Kansas and Texas Railway, and have been operated therewith as one system, and it is not the policy of the State by its suits aforesaid to jeopardize the rights of property therein, or to work injustice to the owners thereof, but it is desirable that all of said railway property herein mentioned and referred to, be owned, held and operated by a domestic corporation formed and organized under and subject to the laws of this State, and that said suits be settled or disposed of in the public interest and with due regard to all and singular the rights and interests therein involved, and inasmuch as there is no law under which the objects and purposes of this act may be accomplished, and no general law can be made applicable in the premises; therefore,

Be it enacted by the Legislature of the State of Texas:

Section 1. That the Missouri, Kansas and Texas Railway Company be, and it is hereby authorized and empowered to transfer, sell and convey, all and singular, the railway property, tracks, sidetracks, depots, rights of way and all properties and property rights within this State, acquired, controlled or held by it, or in its name, by purchase, construction or otherwise; and which sale and conveyance to be made under the power herein given, shall be to some railway corporation, company or association of persons, to be incorporated under the laws of this State for the purpose of acquiring, owning, maintaining and operating the railways so purchased as one property.

Sec. 2. The sales to and purchase by said Missouri, Kansas and Texas Railway Company of the several lines of railway within this State, from the railway companies hereinafter mentioned, and which lines have been heretofore operated by or as the property of the said Missouri, Kansas and Texas Railway Company, or as a part of the system of railroads within the State known as the Missouri, Kansas and Texas Railway, are hereby authorized, approved, ratified and confirmed, and the consent of the State is hereby given thereto; provided, however, that the confirmation and validation of such sales shall not be operative un-

less within twelve months after legal authority is given for the sale to and purchase by a domestic corporation as contemplated by this act, the said Missouri, Kansas and Texas Railway Company shall sell, transfer and convey all and singular the lines of railway constructed by it within this State, as well as those acquired or held by it, or in its name by purchase or otherwise, to some railway corporation, company or association of persons to be incorporated under the general laws of this State, and which shall be subject thereto, as other railway corporations organized under the laws thereof.

Sec. 3. The sale herein authorized to be made, shall be subject to all just and legal incumbrances, suits or actions for damages or rights of way, liens, judgments and debts given, contracted or incurred by said Missouri, Kansas and Texas Railway Company and other companies herein mentioned, upon or against said properties or any part thereof, as well as to the payment and discharge of all and singular the legal obligations and liabilities of every sort whatsoever against said Missouri, Kansas and Texas Railway Company, and properties herein mentioned, and for all debts, judgments, suits, and all claims for damages against the receivers of said Missouri, Kansas and Texas Railway Company to the same extent that said property would be liable therefor if the property remained in the possession and control of said Missouri, Kansas and Texas Railway Company, and the purchasing company or corporation shall take the same, charged therewith, and subject to the payment thereof and the assumption by such purchasing company or corporation of such incumbrances, debts and liabilities may enter into and constitute a part of the consideration for such sale and conveyance thereto, but the property of the new company in Texas, shall not, as between the vendor company and the new corporation, be liable for more than its proportional part of such debts and the incumbrances ascertained upon a basis of mileage in this State as compared with the mileage of the whole system, and the capital stock of such new corporation, when formed, may be issued for such property as additional consideration therefor, and on such terms as may be agreed upon, for the stock of the several herein named corporations, organized under the laws of this State, whose stocks shall be thereupon cancelled and extinguished, and the stock of the purchasing corporation issued in conformity with the constitution and general laws of this State and with the provisions of this act, may be held by the trustee or trustees of the mortgage bondholders, their successors or assigns in trust for the holders of the stocks and bonds of the Missouri, Kansas and Texas Railway Company and their assigns, as and with the powers conferred by the laws of this State on an individual stockholder; provided, that the stock authorized to be issued above shall not exceed ten thousand (\$10,000) dollars on each mile of completed railway acquired under the provisions of this act.

Sec. 4. The purchaser of said lines of railway and their associates shall be entitled to form a corporation under the general laws of this State for the purpose of acquiring, owning, maintaining and operating the same, or any railway corporation that may be formed under the general laws of this State and in accordance therewith for the purpose of acquiring, owning, maintaining and operating said lines of road to be sold under the power herein given, shall have the right to acquire, own, maintain and operate said railway property in accordance with and as required by the laws of this State; and when, in either case, a charter or articles of incorporation have been filed for the purpose of acquiring, owning,

maintaining and operating the lines of railway herein named, such new corporation shall have all the powers and privileges conferred upon railway companies chartered or formed under the general laws of this State, including the power to construct and extend, as is or may be provided in the general laws thereof.

Sec. 5. The lines of railway herein authorized to be sold and purchased by such new corporation to be formed under the laws of this State, are substantially as follows, towit:

1st. A line from Red River to the city of Denison in Grayson county and thence through the counties of Grayson, Cooke, Montague and Clay to the city of Henrietta.

2nd. A line from the city of Denison through the counties of Grayson, Fannin, Hunt, Rains and Wood, to the city of Mineola.

3rd. A line from the city of Denison to the city of Sherman in Grayson county.

4th. A line from the city of Greenville in Hunt county through the counties of Hunt, Collin, Rockwall and Dallas to the city of Dallas in Dallas county.

5th. A line from the city of Dallas to the city of Denton in Denton county.

6th. A line from the city of Dallas, through the counties of Dallas, Ellis and Hill, to the city of Hillsboro in Hill county.

7th. A line from the city of Fort Worth in Tarrant county, through the counties of Tarrant, Johnson, Hill, McLennan, Falls, Bell and Williamson, to Taylor with a branch from Echo, a point on the main line, to Belton in Bell county.

8th. A line from Taylor, through the counties of Williamson, Travis, Bastrop, Fayette and Colorado, to Boggy Tank in Colorado county, and a line from San Marcos, in Hays county, through the counties of Hays and Caldwell, to Lockhart, in Caldwell county, together with the secured rights of way and partially constructed lines of road between Lockhart and Smithville in Bastrop county, and between Boggy Tank and the town of Sealy in Austin county.

9th. A line from Trinity, in Trinity county, through the counties of Trinity, Polk and Tyler, to Colmesneil in Tyler county.

10. The interest of the Missouri, Kansas and Texas Railway Company in the lines between Whitesboro in Grayson county and Fort Worth, Tarrant county, now being operated jointly with the Texas and Pacific Railway Company. And the following are the names of the companies herein referred to, other than the Missouri, Kansas and Texas Railway Company, towit: 1st, The Denison and Pacific Railway; 2nd, The Denison and Southeastern Railway Company, or the Missouri, Kansas and Texas Extension Railway Company; 3rd, The Sherman, Denison and Dallas Railway Company; 4th, The Dallas and Greenville Railway Company; 5th, The Dallas and Wichita Railway Company; 6th, The Dallas and Waco Railway Company; 7th, The Taylor, Bastrop and Houston Railway Company; 8th, The Trinity and Sabine Railway Company; and 9th, The Gainesville, Henrietta and Western Railway Company; and said companies or any of them are hereby authorized and empowered to join in or separately execute any instrument of conveyance that may be deemed necessary to confirm and release to said purchasing company, corporation or association of persons the railways and property to be purchased aforesaid or any part thereof, and upon compliance with this act, all causes of forfeiture heretofore incurred by said companies in this act named or any

of them are, on the part of the State, hereby waived. But nothing herein contained shall be so construed as to authorize the sale of other lines of road, or by other companies, than those herein mentioned.

Sec. 6. When said lines of railway and all and singular the properties of or pertaining thereto shall have been duly sold and conveyed as herein provided, the purchasing company or corporation shall take possession of said railways and properties so acquired by it, and may thereafter own, maintain and operate the same as one property in the name of such new corporation, and in accordance with the constitution and general laws of this State, and the suits aforesaid by the State of Texas shall be thereupon dismissed and the conveyance by said Missouri, Kansas and Texas Railway Company as provided herein to such corporation, company or association of persons to be incorporated under the general laws of this State shall be deemed its acceptance contractually of the provisions of this act; provided, that at or before said suits are dismissed, the Missouri, Kansas and Texas Railway Company or the purchasers therefrom as herein provided shall pay all costs incurred in said suits instituted by the State, and shall refund to the State any cost that may have been expended by the State in the prosecution of said suits, up to and including the date of said sale and payment of the cost by said company or purchaser.

Sec. 7. All courts within this State shall take judicial notice of this act and of the sales and transfers herein provided for to the same extent as if it were a general law.

Sec. 8. The fact that important litigation to which the State is a party is proposed by this act to be fairly settled and disposed of, and that the public interest requires a just and reasonable settlement thereof as herein provided for at the earliest possible date, creates an imperative public necessity and emergency, which justifies a suspension of the constitutional rule requiring bills to be read in each house on three several days and such rule is therefore so suspended and that this act take effect and go into force from and after its passage and it is therefore so enacted.

[Note.—The foregoing act originated in the Senate and passed the same by a vote of 27 yeas and no nays; and passed the House by a vote of 74 yeas and 1 nay.]

Approved April 16, 1891.

SAN ANTONIO—AMENDMENT TO CHARTER OF.

Sec.

1. Amends charter of August 13, 1870.
 - (5) Elective officers.
 - (24) Nomination of officers by the mayor; powers of city council as to officers.
 - (29) City elections; qualification of voters.
 - (37) Vacancies in office, how filled.
 - (43) Issuance of bonds.
 - (45) Payment of city debts; issuance of refunding bonds.
 - (48) To prevent introduction of contagious diseases; quarantine powers.
 - (55) To prescribe duties and compensation of certain officers.

Sec.

- (98) Regulation of houses of prostitution.
- (102) To inspect asylum buildings; reports thereon.
- (119) The mayor may solemnize marriages.
- (127) Bond and duties of treasurer.
- (133) Duties of engineer.
- (201) Widening, etc., of streets, etc.
- (203) Right of eminent domain.
- (227) Exhibits of financial affairs of the city.
- (249) Compensation of city officers.
- (251) Payment of salaries.
2. Emergency clause.

CHAP. 24.—[H. B. 640.] An act to amend an act incorporating the City of San Antonio, approved August 13, 1870, and all acts amendatory thereof, and to validate certain acts thereunder.

Section 1. Be it enacted by the Legislature of the State of Texas: That sections 5, 24, 29, 37, 43, 45, 48, 55, 98, 102, 119, 127, 133, 201, 203,

227, 249 and 251, of the charter of the City of San Antonio, approved August 13, 1870, and all acts amendatory thereof, be so amended as to hereafter read as follows:

Section 5. That on the second Monday in February, beginning with the year 1893, a mayor, recorder, collector, treasurer, city attorney, auditor, assessor, and one alderman from each ward in the city, and four aldermen from the city at large, shall be voted for, and the returns of such election shall be made as hereinafter provided.

Section 24. At the first regular meeting of the city council after the promulgation of the result of the election for mayor and other officers, the city council, upon nominations therefor, made by the mayor, shall proceed to elect a city clerk, one physician, one street commissioner, one or more market masters, one or more water commissioners, one city engineer, city marshal, and clerk of recorder's court, and one or more assistant marshals, and such police and other officers as they may deem necessary for the proper administration of the city government and for the interest of the city. They may provide by ordinance for the suspension or removal, by two-thirds vote of the entire council, of all officers elected by the people or appointed by the council, for malfeasance, misfeasance or nonfeasance in office, and shall fill all vacancies as they may occur; provided, such vacancies occur not less than nine months before the expiration of the term of office of the parties vacating.

Sec. 29. That all elections in the city shall be held in accordance with the State law governing elections, and returns shall be made to the mayor in the same manner that returns are made under the State law. The qualifications of voters shall be as prescribed in article 6 of the constitution of the State; provided, that at all elections wherein property taxpayers only are allowed to vote, those only who are actual taxpayers, and whose names appear on the last assessment roll of the city shall be deemed property taxpayers; provided further, that if the name of any person offering to vote, he being otherwise qualified, does not appear on said tax roll, but produces his property tax receipt for the preceding year, he shall be entitled to vote, but the word "sworn" shall be written on the back of his ballot and opposite his name on the poll lists.

Section 37. In case of vacancy in any office filled by an election by the people, such vacancy shall be filled by a majority vote of the city council; provided, such vacancy occurs within nine months of an election therefor, otherwise the mayor shall order an election to fill such vacancy; provided further, that the successor of a ward alderman shall in every case be a resident of the same ward as his predecessor.

Section 43. To borrow money on the credit of the city, and issue bonds therefor, to an amount not to exceed fifty thousand dollars for street improvements, and ten thousand dollars for sidewalk purposes may be borrowed for and during five years from the passage of this act and not thereafter. To make a loan exceeding the aforesaid sum, the question must be submitted to the property taxpayers, voters of the city, and if sustained by a majority of the votes polled, such loan shall be lawful. All bonds shall specify for what purpose they are issued, and shall not be sold for less than their par value; provided, that no debt shall be contracted for the payment whereof such bonds are issued, except the sidewalk bonds, until such bonds shall have been disposed of and the proceeds thereof paid into the city treasury, and when any bonds are issued by the city a fund shall be provided to pay the interests and two per cent (2 per cent) per annum on the principal as a sinking fund to redeem

the bonds, which fund shall not be diverted or drawn for any other purpose, and the city treasurer shall honor no draft drawn on said fund except to pay the interest or to redeem the bonds for which it was provided, and for the payment of such loan to levy a special tax over and above the general tax allowed by this act; provided, the rate of tax shall not exceed one half of one per cent (1 per cent) and the rate of interest paid shall not exceed six per cent (6 per cent); provided also, no loan shall be made for any other purpose or purposes than those connected with the corporation of said city, and no loan shall be made to aid any private enterprise, railroad or undertaking not under the management and control of the city council. The sinking fund for the redemption of any loan or debt, to be invested as fast as the same accumulates in the United States interest bearing bonds, bonds of the State of Texas, or in city bonds, and such bonds, and the interest of such bonds to be reinvested and to be sold when necessary to pay debts or loans. The amounts expended by the city out of sidewalk funds for the construction of sidewalks for individuals shall, as fast as the same is repaid by such individuals to the city, be used for street improvements.

Section 45. To appropriate and provide for the payment of the debts and expenses of the city, and to issue refunding bonds for the purpose of redeeming bonds bearing a higher rate of interest or paying matured bonds; provided, that the bonded debt of the city shall not be increased nor other evidence of debt be issued, exceeding the amount provided in section 43 hereof, in any one fiscal year, unless authorized by a vote of the property taxpayers as hereinbefore provided. The fiscal year shall commence on the first day of June, and terminate on the last day of May following; provided further, that the bonded debt of the city shall never exceed eight per cent of the total assessed value of the property in the city, according to the last assessment roll.

Section 48. To make regulations to prevent the introduction of contagious diseases into the city; to make quarantine laws for that purpose, and to enforce the same within five (5) miles of the city, and to make all ordinances and regulations to prevent the spread of any contagious diseases within the city limits; to establish hospitals and pest houses.

Section 55. To regulate and prescribe the duties and powers and compensation of all officers, agents and employes of the city, except the compensation of the mayor, city marshal, collector, assessor, treasurer, city attorney, engineer and recorder, and to require bonds; to create any office, or employ any agent they may deem necessary for the good government and interest of the city, and to change or prescribe additional duties of all such officers and agents; provided, that the compensation of all officers shall not be increased or diminished during their term of office, and that all salaries fixed thereby shall take effect from and after the time when this amendment takes effect.

Section 98. To prevent and punish the keeping of houses of prostitution within the city, or within such limits therein as may be defined by ordinance, and to adopt summary measures for the removal or suppression, or license, taxation, regulation and inspection of all such establishments.

Section 102. To inspect all buildings and establishments for educational or asylum purposes; to see that the inmates thereof are properly treated and to require all institutions of whatever nature used as asylums, colleges or boarding schools, to make a report of the number of

inmates and sanitary condition of the same every month, and to enforce the vaccination of all inmates thereof.

Section 119. The mayor shall have power to solemnize marriages.

Section 127. The treasurer of said city shall give bond in favor of the City of San Antonio in such amount as may be required by the city council and with sufficient sureties, conditioned for the faithful discharge of his duties. He shall receive and securely keep all monies belonging to the city, and make all payments for the same upon the order of the mayor, attested by the clerk. He shall keep regular and correct accounts of all the real, personal and mixed property, and shall render a full and correct quarterly statement of his receipts and payments to the city council, and whensoever at other times he may be required by them, and shall do and perform such other acts and duties as the city council may require.

Section 133. The duties of the engineer shall be fixed by the city council, as well as the amount of bond he shall give for the faithful performance of his duties.

Section 201. In the widening or straightening of any street, avenue, alley, plaza, square, park or other highway, the city council shall determine, by ordinance, the manner and extent of such widening or straightening. Upon the filing of such ordinance and the plan of the proposed widening with the county clerk, it shall be the duty of the county judge to appoint three disinterested freeholders of the city as commissioners, who, after being sworn to act with fidelity and impartiality, shall carefully estimate the value of the property necessary to be taken for such widening or straightening, making a separate estimate in the case of each owner. It shall be thereafter the duty of the commissioners to estimate the benefits accruing to any property on the street or in the vicinity that they may consider benefitted by such improvements, filing with their report a list of the owners of such property and the amount of the supposed benefit stated separately in each case. On the filing of such report with the city clerk the city council shall, at their first meeting, or as soon as practicable thereafter, give five days public notice through the official journal, at which time said report will be acted upon (which shall not be less than ten days after the expiration of said notice), and all parties feeling aggrieved by the action of said commissioners may be heard by the council on appeal. The action of the city council shall be limited to the increase of the value of the award for property taken, or decrease of the assessment for supposed benefit to the property by the improvement contemplated. The city council, by tendering to the owner of the land taken the amount of the award, may at once enter upon and appropriate said land for the purposes of opening, widening, or altering said street, alley, etc. The benefits reported, and as may be devised by the city council, shall be assessed as a special tax against the property reported as benefitted, and shall be payable at such time as the council may direct; and said tax shall be a lien upon the property until the payment thereof; and the city collector shall proceed to collect the said tax in the same manner as other taxes are collected; provided, that if deemed necessary, the city council may proceed by suit in any court of competent jurisdiction as an additional remedy for the collection of any and all taxes of every nature assessed or levied by the city.

Section 203. Whenever the city council shall deem it necessary to take private property for the use of the city, for streets, avenues, alleys,

plazas, squares, parks, hospitals, pest houses, school houses or any other public buildings or uses, such property may be taken for such purpose by making just compensation to the owner thereof. If the amount of such compensation cannot be agreed upon, it shall be duty of the city council to cause to be stated in writing the particular property required, the name of the owner and his residence, if known, and file the same with the city clerk. Thereafter the city clerk shall notify the owner or agent, if known, of the filing of such statement. The damage to accrue to the owner, by reason of such condemnation, shall be assessed by three disinterested freeholders of the city, one to be selected by the owner of the property, one to be selected by the mayor, the third to be selected by the two thus appointed, who, after being sworn to perform the duties of their appointment with fidelity and impartiality, shall assess the damages to accrue by reason of such condemnation. In the event the owner of the property shall fail to appoint the commissioner hereinbefore provided for, within ten days from the service of the notice of the city clerk, the mayor shall appoint such commissioner. In the event that the two commissioners cannot agree upon the selection of the third, then the county judge, on application, shall appoint the said commissioner. The city council shall provide, by ordinance, for the service of the notice herein provided for, and shall also provide the method of assessing the damage to accrue to the owner of the property.

Section 227. The mayor shall cause a quarterly exhibit of the financial affairs of the city to be published in the official journal. The mayor shall also, within thirty days after the close of every fiscal year, cause to be published in pamphlet form, for general distribution, an exhibit of the financial condition of the city for such fiscal year, which exhibit shall specify the number and date of each warrant drawn, the amount thereof, the name of the person to whom the same was issued, and for what purpose or account the same was drawn. Every taxpaying citizen shall, during office hours, have the right to examine any and all books, vouchers, records and papers belonging to the city and in the custody of its officers, and shall have the right to take copies: and it shall be the duty of the proper custodian of a paper or record appertaining to the city or its business to produce and exhibit any such paper or record demanded to be inspected by any such citizen.

Section 249. The officers of the city of San Antonio herein named shall receive from the city the following compensation and no more:

First. The mayor shall receive the sum of \$3600 per annum.

Second. The city auditor shall receive \$1800 per annum.

Third. The recorder shall receive the sum of \$1200 per annum.

Fourth. The city marshal [shall] receive the sum of \$2000 per annum.

Fifth. The city attorney shall receive the sum of \$2000 per annum.

Sixth. The collector shall receive the sum of \$2700 per annum, and shall pay his own clerks or assistants.

Seventh. The assessor shall receive the sum of \$2000 per annum.

Eighth. The treasurer shall receive the sum of \$1200 per annum.

Ninth. The engineer shall receive the sum of \$2000 per annum.

Section 251. The salaries of the officers named in the preceding section shall be payable monthly out of the city treasury, at the end of each month, on warrants drawn by the mayor and attested by the clerk in accordance with said section from and after the passage of this act.

Sec. 2. The fact that it is important to the interest of the general public of said city that the changes of the charter of said city made by

this act go into effect immediately creates an emergency and an imperative public necessity, which requires the suspension of the constitutional rule requiring bills to be read on three several days, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act originated in the House and passed the same by a vote of 81 yeas and 1 nay; and passed the Senate by a vote of 26 yeas and 2 nays.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 11th day of April, A. D. 1891, but was not signed by him nor returned to the house in which it originated with his objections thereto; nor were any objections thereto filed by him in this office after adjournment of the Legislature within the time prescribed by the constitution. This act thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

ROADS—LAVACA COUNTY.

Sec.

1. Appointment of road overseers; term of office.
2. Duty of road overseers; compensation.
3. Oath and bond of overseer.
4. Commissioners court may remove overseer and fill vacancy.
5. Overseer responsible for tools, teams, etc., received; shall deliver money and property to his successor.

Sec.

6. Convict labor; credits on fine and costs; commutation.
7. Overseer may contract for use of teams; wages allowed for teams.
8. Other duties of overseer.
9. Report of overseer.
10. Penalty for failure to comply with this act.
11. This act cumulative of general laws.
12. Emergency clause.

CHAP 125.—[H. B. No. 638.] An act to create a more efficient road system in the county of Lavaca and to provide for the appointment of road overseers therein and to define the powers and jurisdiction of the commissioners court of said county with regard thereto.

Section 1. Be it enacted by the Legislature of the State of Texas: That the commissioners court of Lavaca county may appoint a convenient number of road overseers in said county who shall hold their offices for two years and until their successors are appointed and qualified.

Sec. 2. The road overseers so appointed shall perform all the duties required of overseers under the general laws of this State and such other duties as may be required of them by the Commissioners court of said county and shall receive such compensation as the Commissioners court may prescribe not to exceed one dollar and fifty cents per day for the time actually engaged.

Sec. 3. Each overseer shall, within twenty days after his appointment, take the oath prescribed in the constitution, and enter into bond payable to the County Judge in such sum as may be fixed by the Commissioners court, to be approved by the County Judge, conditioned that he will faithfully discharge all of the duties incumbent upon him as such road overseer and pay out and account for all the money that may come into his hands according to law and the requirements of the commissioners court, which bond shall not be void on the first recovery, but may be sued on from time to time until the full amount is exhausted.

Sec. 4. The Commissioners court may for good cause remove any overseer and in case of vacancy from any cause may fill the same by appointment.

Sec. 5. Each road overseer shall take charge of all tools, implements and teams placed under his control by the Commissioners court, and exe-

cute his receipt therefor, which shall be filed with the County Clerk, and he shall be responsible for all such tools, teams, implements and machinery and the proper expenditures and paying out of all money belonging to the road fund that may come into his hands, and shall be liable for the loss, injury or destruction of any such tools, teams, implements, or machinery, if the result of his negligence, or for the wrongful or improper expenditure of such money, and upon the expiration of his term of office, or in case of his resignation or removal he shall deliver all such money and property to his successor or such other person as the commissioners court may direct.

Sec. 6. The Commissioners court shall require all county convicts not otherwise employed to labor upon the public roads under such regulations as may be most expedient. Each county convict worked on the roads in satisfaction of any fine and cost, shall receive a credit thereon of fifty cents for each day he may labor, and the county shall pay to the officers one-half of any cost that may have been adjudged against such convict coming to such officers. The Commissioners court may grant a reasonable commutation of time for faithful services and good behavior.

Sec. 7. The overseers may contract with any person subject to road duty for the use of teams, and permit such person to discharge his road duty by the use of such double team; he shall never allow more than \$2.00 per day for any team, nor more than \$3.00 for any hand and double team.

Sec. 8. It shall be the duty of each road overseer to see that all of the roads and bridges in his road precinct are kept in good repair and see that every person subject to road duty in his road precinct performs the work for which he is liable under the law. He shall act as supervisor of the roads in his road precinct and perform all the duties as supervisor that now devolves upon the commissioner; and the county commissioners of said county are relieved from the performance of the duties prescribed by article 4390a, Revised Civil Statutes.

Sec. 9. Each road overseer shall make a report under oath to the Commissioners court every six months showing an itemized statement of all money belonging to the road fund he has received, from whom received, and what disposition he has made of the same, the condition of all roads and bridges in his road precinct and such other matters as the court may require information upon and shall make such other reports at such times as such court may require.

Sec. 10. Any road overseer who shall wilfully fail or refuse to comply with any provisions of this act or order of the Commissioners court or to perform any duty required of him by law shall be guilty of a misdemeanor and on conviction thereof punished by fine of not less than ten nor more than two hundred dollars.

Sec. 11. This act shall be cumulative of all general laws on the subject of roads and bridges not in conflict herewith, and where not otherwise provided herein, such general laws shall apply, but in case of conflict with general laws the provisions of the act shall govern.

Section 12. The fact that there is now no sufficient road law in Lavaca county, and that the roads therein are in bad condition, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended; and that this act take effect and be in force from and after its passage, and said rule is suspended, and it is so enacted.

[Note.—The foregoing act originated in the House and passed the same—vote not given; and passed the Senate—vote not given.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the thirteenth day of April, A. D. 1891, but was not signed by him nor returned to the house in which it originated with his objections thereto; nor were any objections thereto filed by him in this office after adjournment of the Legislature, within the time prescribed by the constitution. This act thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

THE STATE OF TEXAS,
Department of State.

I, Geo. W. Smith, Secretary of State of the State of Texas, certify that the foregoing special laws, passed at the regular session of the Twenty-second Legislature, have been carefully examined and compared with the original enrolled bills now on file in this department, and are true copies of said originals.

I further certify that the Twenty-second Legislature convened in the city of Austin, January 13, A. D. 1891, and adjourned April 13, A. D. 1891.

[Seal.] In testimony whereof I have subscribed my name, and have hereto affixed the seal of the State of Texas, in the city of Austin, September 5, A. D. 1891.

GEO. W. SMITH,
Secretary of State.

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GENERAL LAWS
OF
THE STATE OF TEXAS

PASSED AT THE
FIRST CALLED SESSION OF THE TWENTY-SECOND LEGISLATURE

CONVENED
AT THE CITY OF AUSTIN

MARCH 14, 1892, AND ADJOURNED APRIL 12, 1892.



AUSTIN
1892

PROCLAMATION BY THE GOVERNOR.

Executive Office,
Austin, Texas, February 18, 1892. }

To Whom These Presents May Concern:

Whereas, The constitution requires the state to be reapportioned for certain purposes every ten years, and the time having about expired since the last apportionment, it is now necessary to perform that duty in obedience to organic law, that the people may have their full and just representation in the next congress and state legislature; and

Whereas, By vote of the qualified electors on the second Tuesday in August, A. D. 1891, five several amendments to the state constitution were adopted, and should be put in force at the earliest opportunity consistent with public interests; and

Whereas, The live stock industries of Texas are being seriously injured by restrictive laws passed by congress affecting transportation and sale of cattle under quarantine regulations, which can only be corrected by legislative action by the state; and

Whereas, The extravagant issuance of railway and municipal bonds, without valuable, just or proper consideration, but for speculative, fictitious purposes, threaten calamity to public prosperity, depreciate honest securities, cast opprobrium on the state's reputation abroad, and should be checked by just, restrictive laws.

For these and other good and sufficient reasons hereinafter named an extraordinary occasion has arisen, requiring the legislature to be convened.

Now, therefore, I, James S. Hogg, Governor of the State of Texas, do, by virtue of the authority vested in me by the constitution of said state, hereby call a special session of the Twenty-second Legislature, to be convened in the city of Austin, commencing at twelve o'clock, noon, on Monday, the fourteenth day of March, A. D. 1892, for the following purposes:

1. To reapportion the state into congressional, senatorial, judicial and representative districts, and to provide for election of officers therein.

2. To pass all laws necessary to put in force and give effect to each and all of the five amendments of the present state constitution, adopted by the people at an election duly held therefor on the second Tuesday of August, A. D. 1891, to-wit: Amendment to section four of article six; amendment to section five of article seven; amendment to section eleven of article sixteen; amendment to section twenty of article sixteen, and amendments to sections one, two, three, four, five, six, seven, eight, eleven, twelve, sixteen, twenty-five and twenty-eight of article five, of the said constitution.

3. To provide for the protection of the public and investors against the fraudulent and fictitious issuance and circulation of railway bonds and stock and county and municipal scrip and bonds; to restrict and regulate the issuance of bonds and stocks by such corporations; and to give full effect to the constitution on that subject.

4. To adopt such laws as may be necessary to protect live stock

within the state from contagious and infectious diseases, and from the rigor of Federal quarantine regulations with reference thereto.

5. To re-enact or amend and strengthen chapter 117, General Laws 1889, defining, punishing and prohibiting trusts and conspiracies against trade.

6. To accept by resolution, and authorize the governor to receive from the Federal government the return of and to appropriately disburse all money due the citizens or inhabitants of this state, collected as 'taxes' from them under the act of congress approved August the fifth, eighteen hundred and sixty-one, and amendatory acts thereto.

7. To so change the laws that quarterly examinations of teachers shall not conflict with the time of holding their summer normal schools.

8. To receive and act on the report of the committee appointed to investigate the case of Jay Gould vs. The I. & G. N. R. R., under a concurrent resolution passed at the general session of the Twenty-second Legislature.

9. To provide more secure liens for artisans, mechanics, material men, contractors, builders and laborers and their assigns for material and money furnished and services performed in building and construction.

10. To so amend article 2899, Revised Statutes, and amendments thereto, that receivers of railways and other corporations may be held liable for damages when the death of or injury to persons is caused by the negligence or carelessness of themselves or their servants in executing their trusts.

11. To amend, modify, change or re-enact chapter 95, General Laws, passed by the Twenty-second Legislature, providing for uniformity of public school text books.

12. To correct, modify, change, re-enact, repeal or amend chapter 62, General Laws, passed by the Twenty-second Legislature, limiting and regulating the right of aliens to own real estate in Texas.

13. To define perpetuities, and to restrict, regulate or prohibit corporations owning land in this state, on prescribed conditions.

14. To make appropriation out of the general revenue to pay off public debt bonds issued in 1871 and to become due in March and April.

15. To elect a United States senator.

16. To consider and act on such other subjects of public importance as the executive may, from time to time during the session, submit by message or otherwise.

[Seal.]

In testimony whereof, I have hereunto signed my name and caused to be impressed hereon the seal of the state, at Austin this 18th day of February, A. D. 1892.

[Signed]

J. S. Hogg,
Governor of Texas.

By the Governor:

[Signed]

GEO. W. SMITH,
Secretary of State.

GENERAL LAWS OF TEXAS.

FIRST CALLED SESSION

TWENTY-SECOND LEGISLATURE, 1892.

APPROPRIATION FOR MILEAGE AND PER DIEM OF MEMBERS, OFFICERS AND EMPLOYES.

- | | |
|---|---|
| Sec. | Sec. |
| 1. Forty thousand dollars appropriated for mileage and per diem pay of members, officers and employes of Called Session of Twenty-second Legislature. | 2. How claims are audited. |
| | 3. Appropriates balance remaining of former appropriations. |
| | 4. Emergency clause. |

CHAP. 1.—[H. B. No. 8.] An act making an appropriation for mileage and per diem pay of members, and per diem pay of officers and employes of the First Called Session of the Twenty-second Legislature of Texas, convened March 14, 1892, by proclamation of the governor.

Section 1. Be it enacted by the Legislature of the State of Texas: That the sum of forty thousand dollars, or so much thereof as may be necessary, be and the same is hereby appropriated out of any money in the treasury of this state not otherwise appropriated, for the payment of mileage and per diem pay of the members and the payment of the per diem pay of the officers and employes of the First Called Session of the Twenty-second Legislature of Texas, convened March 14, 1892, by proclamation of the governor.

Sec. 2. That the certificate of the secretary of the senate, approved by the president thereof, or the certificate of the chief clerk of the house, approved by the speaker thereof, shall be sufficient evidence to the comptroller upon which he shall audit the claims and issue his warrants upon the treasurer for the respective amounts.

Sec. 3. That the balance of the moneys remaining in the treasury heretofore appropriated for the per diem pay and mileage of the members and the per diem pay of the officers and employes of any preceding session of the legislature of the State of Texas, be and the same is hereby re-appropriated for the purposes specified in this act.

Sec. 4. The public importance of the objects herein contemplated creates an imperative public necessity and emergency fully authorizing the suspension of the constitutional rule requiring bills to be read on three several days in each house, and said rule is hereby suspended, and that this act shall take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act originated in the house, and passed the same by a two-thirds vote—ayes 89, noes 3; and passed the senate by a two-thirds vote—ayes 26, noes 0.]

Approved March 18, 1892.

APPROPRIATION FOR CONTINGENT EXPENSES.

- Sec. 1. Ten thousand dollars appropriated for contingent expenses of Called Session of Twenty-second Legislature; auditing of claims.
2. Emergency clause.

CHAP. 2.—[H. B. No. 24.] An act making an appropriation to defray the contingent expenses of the First Called Session of the Twenty-second Legislature convened March 14, 1892, by proclamation of the governor.

Section 1. Be it enacted by the Legislature of the State of Texas: That the sum of ten thousand dollars, or so much thereof as may be

necessary, is hereby appropriated out of any moneys in the treasury not otherwise appropriated, to pay the contingent expenses of the First Called Session of the Twenty-second Legislature convened March 14th, 1892, by proclamation of the governor, and that the approval by the chairman of the committee on contingent expenses of either house, countersigned by the president of the senate or speaker of the house of representatives, as the case may be, shall be sufficient authority to authorize the comptroller to issue his warrant on the state treasurer for the payment of any account so drawn against said fund.

Sec. 2. That the public importance of the objects herein contemplated creates an imperative public necessity and emergency fully authorizing the suspension of the constitutional rule requiring bills to be read on three several days in each house, and said rule is hereby suspended, and that this act shall take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act originated in the house, and passed the same by two-thirds vote—yeas 91, nays 0; and passed the senate by two-thirds vote—yeas 25, nays 0.]

Approved March 24, 1892.

JUDICIAL DISTRICT—TWENTY-FIRST.

Sec.

1. Counties composing twenty-first district; terms of court.

2. Return of process.

Sec.

3. Repealing clause.

4. Emergency clause.

CHAP. 3.—[S. B. No. 27.] An act to organize and establish the twenty-first judicial district, to fix the times of holding courts therein, and to repeal all laws and parts of laws in conflict therewith.

Section 1. Be it enacted by the Legislature of the State of Texas: That the counties of Washington, Burleson, Lee and Bastrop shall constitute the twenty-first judicial district, and the district courts therein shall be held as follows: In the county of Washington on the first Mondays in March and September, and may continue in session six weeks; in the county of Lee on the seventh Monday after the first Mondays in March and September, and may continue in session three weeks; in the county of Burleson on the tenth Monday after the first Mondays in March and September, and may continue in session five weeks; in the county of Bastrop on the fifteenth Monday after the first Mondays in March and September, and may continue in session six weeks.

Sec. 2. All writs and process, civil and criminal, heretofore issued or which may be issued and made returnable to the terms of said district courts as said terms are now fixed by law at the time this act takes effect, shall be and are hereby made returnable to the next ensuing terms of said courts as they are prescribed in this act; and all writs and process issued by or from said courts after the adjournment of the term last held under the law as it exists at the time of the passage of this act shall be made returnable to the terms as prescribed in this act, and all such writs and process hereinbefore mentioned are hereby legalized and validated to all intents and purposes.

Sec. 3. All laws and parts of laws in conflict herewith are hereby repealed.

Sec. 4. The near approach of the end of the session creates an emergency and an imperative public necessity requiring the suspen-

sion of the rule requiring this bill to be read on three several days, and said rule is hereby suspended.

[Note.—The foregoing act originated in the senate, and passed the same by a vote of, ayes 24, noes 0; and passed the house March 31, 1892; vote not given.]

[Note.—The foregoing act was presented to the governor of Texas for his approval on the first day of April, A. D. 1892, but was not signed by him, nor returned to the house in which it originated, with his objections thereto, within the time prescribed by the constitution, and thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

PUBLIC EDUCATION—TEACHERS' CERTIFICATES.

Sec. 1. Amends section 2(a), chapter 116, acts of 1891.

2(a). Examinations, when made.

2. Emergency clause.

CHAP. 4.—[H. B. No. 16.] An act to amend section 2 (a) of chapter 116, acts of the Twenty-second Legislature entitled "An act to provide for the issuance of certificates to teachers in the public schools of Texas and prescribing their duties as such," approved April 28, 1891.

Section 1. Be it enacted by the Legislature of the State of Texas: That section 2(a), chapter 116, acts of the Twenty-second Legislature, be so amended as hereafter to read as follows:

Section 2(a). Any one desiring to teach a public free school shall, if required by the county superintendent or ex-officio county superintendent, present a certificate from three good citizens known to the county superintendent or ex-officio county superintendent, that the applicant is of good moral character and exemplary habits. The county superintendent or ex-officio superintendent shall thereupon, unless some good cause exists for refusing the certificate hereinafter mentioned, recommend any applicant to the board of examiners for examination in this state. And the examination of white and colored teachers shall be held separately under such rules as the board of examiners may prescribe, which said board of examiners shall be convened by the county superintendent or ex-officio superintendent on the third Friday and Saturday of August, September, November, February, April and June of each year, for the purpose of examining applicants to teach in the public free schools of the state. The board of examiners shall use questions prescribed by the state superintendent of public instruction; provided, that [if] from any unavoidable cause the board of examiners can not hold their meetings on the days herein prescribed, the said board shall meet as soon as practicable thereafter, on the call of the county superintendent or ex-officio superintendent, and in addition to the times above specified the board of examiners may be convened on the call of the superintendent or ex-officio superintendent at any time such superintendent shall deem necessary.

Sec. 2. As summer normal schools will be begun before ninety days after the adjournment of the legislature, and as it is important that examinations shall be held at a time convenient for the commencement of summer schools, therefore an emergency and imperative public necessity exists that the constitutional rule requiring bills to be read on three several days in each house be suspended, and it is so suspended, and that this act take effect and be in force from and after its passage, and it is [so] enacted.

[Note.—The foregoing act originated in the house, and passed the same by a two-thirds vote—ayes 81, noes 10; and passed the senate by a two-thirds vote—ayes 26, noes 2.]

Approved April 4, 1892.

STATE BONDED DEBT.

- Sec. 1. Two hundred and forty-eight thousand seven hundred dollars appropriated to pay bonds due in March and April, 1892.
2. Emergency clause.

CHAP. 5.—[S. B. No. 9.] An act making an appropriation to pay the bonded debt of the State of Texas now held by individuals and falling due March 1st and April 1st, 1892.

Section 1. Be it enacted by the Legislature of the State of Texas: That the sum of \$248,700.00 be and the same is hereby appropriated out of the general revenue to pay state bonds now held by individuals and falling due March 1st and April 1st, 1892.

Sec. 2. Whereas, certain of these bonds are now due, a public necessity exists which demands that the constitutional rule requiring bills to be read on three several days be suspended and this act take effect from and after its passage, and it is so enacted.

[Note.—The foregoing act originated in the senate, and passed the same by a vote of ayes 26, noes 0; and passed the house by a vote of ayes 85, noes 1.]

Approved April 11, 1892.

INTEREST.

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| <p>Sec.
1. Amends articles 2976, 2977, 2978, 2979 and 2980, Revised Statutes, and adds article 2981a.
Article 2976. Legal interest on written contracts.
Article 2977. Legal interest on open accounts.</p> | <p>Sec.
Article 2978. Conventional interest.
Article 2979. Penalty.
Article 2980. Interest on judgments.
Article 2981a. Recovery of illegal interest paid.
2. Repealing clause.
3. Emergency clause.</p> |
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CHAP. 6.—[H. B. No. 21.] An act to amend title 54, articles 2976, 2977, 2978, 2979, and 2980, of the Revised Statutes of the State of Texas, regulating the rate of interest, and defining usury, and to add thereto article 2981a: to regulate the rates of interest and prevent usury, and to repeal "An act to be entitled an act to define and punish usury" passed at the regular session of the Twenty-second Legislature, and all laws and parts of laws in conflict with the provisions of this act.

Section 1. Be it enacted by the Legislature of the State of Texas: That articles 2976, 2977, 2978, 2979, and 2980, title 54, of the Revised Statutes of the State of Texas, be and they are hereby so amended, and article 2981(a) so added thereto, that the same shall hereafter read as follows:

Article 2976. On all written contracts ascertaining the sum payable, when no specified rate of interest is agreed upon by the parties to the contract, interest shall be allowed at the rate of six per cent per annum from and after the time when the sum is due and payable.

Article 2977. On all open accounts, when no specified rate of interest is agreed upon by the parties, interest shall be allowed at the rate of six per cent per annum from the first day of January, after the same are made.

Article 2978. The parties to any written contract may agree to and stipulate for any rate of interest not exceeding ten per cent per annum on the amount of the contract.

Article 2979. All written contracts whatsoever, which may in any way, directly or indirectly, violate the preceding article by stipulating for a greater rate of interest than 10 per cent per annum, shall be void and of no effect for the amount or value of the interest only; but the principal sum of money or value of the contract may be received and recovered.

Article 2980. All judgments of the several courts of this state shall bear interest at the rate of six per cent per annum from and after the date of the judgment, except where the contract upon which the judgment is founded bears a specified interest greater than six per cent per annum and not exceeding ten per cent per annum, in which case the judgment shall bear the same rate of interest specified in such contract and after the date of such judgment.

Article 2981a. If usurious interest, as defined by the preceding articles, shall hereafter be received or collected, the person or persons paying the same, or their legal representatives, may by action of debt, instituted in any court of this state having jurisdiction thereof, within two years after such payment, recover from the person, firms or corporation receiving the same, double the amount of the interest so received or collected.

Sec. 2. "An act to be entitled an act to define and punish usury," passed at the regular session of the Twenty-second Legislature, and all other laws and parts of laws in conflict with the provisions of this act, be and the same are hereby repealed.

Sec. 3. The fact that the laws of Texas regulating the rate of interest and defining usury are in great confusion and daily liable to work hardships on the people, and the necessity of putting into immediate effect the provisions of the recent amendment to the constitution, creates an emergency and imperative public necessity that the rules requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and said rule is so suspended and it [is] so suspended [enacted].

[Note.—The foregoing act originated in the house, and passed the same by a two-thirds vote—ayes 85, noes 6; and passed the senate April 9, 1892—vote not given.]

Approved April 11, 1892.

INJURIES RESULTING IN DEATH—ACTIONS FOR.

Sec. 1. Amends article 2899 R. S. as amended by act of March 25, 1887.

Article 2899. When damages for injuries resulting in death may be recovered.

2. Emergency clause.

CHAP. 7.—[H. B. No. 20.] An act to amend article 2899 of the Revised Civil Statutes of the State of Texas as amended by an act entitled "An act to amend article 2899 of the Revised Civil Statutes of the State of Texas in relation to the recovery of damages for injuries resulting in death." passed by the Twentieth Legislature and approved March 25, 1887.

Section 1. Be it enacted by the Legislature of the State of Texas: That article 2899 of the Revised Civil Statutes of the State of Texas be so amended as to hereafter read as follows:

Article 2899. An action for actual damages on account of injuries causing the death of any person may be brought in the following cases:

1. When the death of any person is caused by the negligence or carelessness of the proprietor, owner, charterer, hirer of any railroad, steamboat, stage coach, or other vehicle for the conveyance of goods or passengers, or by the unfitness, negligence or carelessness of their servants or agents; when the death of any person is caused by the negligence or carelessness of the receiver or receivers or other person or persons in charge or control of any railroad, their servants or agents, and the liability of receivers shall extend to cases in which the death may be caused by reason of the bad or unsafe condition of the railroad or machinery or other reason or cause by which an action may be brought for damages on account of injuries, the same as if said railroad were being operated by the railroad company.

2. When the death of any person is caused by the wrongful act, negligence, unskilfulness or default of another.

Sec. 2. The fact there is no law in force authorizing suits for damages for injuries resulting in death received on railroads in the hands of receivers, creates an emergency and imperative public necessity which requires that the constitutional rule requiring bills to be read on three several days be suspended, and it is so suspended and this act shall take effect from and after its passage, and it is so enacted.

[Note.—The foregoing bill originated in the house and passed the same by a two-thirds vote—ayes 93, noes 2; and passed the senate by a two thirds vote—ayes 23, noes 1.]

Approved April 11, 1892.

ALIENS.

Sec.

1. No alien to own lands except as herein provided.
2. Does not apply to present owners nor bona fide inhabitants; alienation; naturalized citizens may hold real estate.
3. Aliens may enforce liens on land.

Sec.

4. Non-resident aliens may hold land for ten years; minors, etc.
5. Conveyances to evade the law are void.
6. Escheat proceedings.
7. Judicial sales; proceeds.
8. Repealing clause.
9. Emergency clause.

CHAP. 8.—[S. H. B. Nos. 22, 23 and 31.] An act to limit and regulate the ownership by aliens of real estate in the State of Texas, and to provide for the escheat of lands held contrary to law, and to repeal all laws in conflict with this act.

Section 1. Be it enacted by the Legislature of the State of Texas: That no alien or person who is not a citizen of the United States shall acquire title to or own any land in the State of Texas except as hereinafter provided.

Sec. 2. This act shall not apply to land now owned in this state by aliens so long as it is held by the present owners, nor to any alien who is or shall become a bona fide inhabitant of the State of Texas; and any alien who is or shall become a bona fide inhabitant of the State of Texas, shall have the right to acquire and hold lands in this state upon the same terms as citizens of the State of Texas, during the continuance of the bona fide residence of such alien in this state; provided, that if any such resident alien shall cease to be a bona fide inhabitant of this state, then such alien shall have ten years from the time he ceases to be such bona fide inhabitant, in which to alienate such lands. This act shall not be construed to prevent any persons not citizens of the United States from acquiring or holding lots or parcels of lands in any incorporated or platted city, town or village in this

state; provided further, that any alien who shall become an actual resident of this state, and shall, in conformity with the naturalization laws of the United States, have declared his intention to become a citizen of the United States, shall have the right to acquire and hold real estate in this state in the same manner as if he was a citizen of the United States.

Sec. 3. This act shall not prevent aliens from acquiring lands, or any interest therein, in the ordinary course of justice in the collection of debts; nor from acquiring liens upon real estate, or any interest therein, nor from lending money and securing the same upon real estate, or any interest therein; nor from enforcing any such lien, nor from acquiring and holding title to such real estate, or any interest therein, upon which a lien may have heretofore or may hereafter be fixed, or upon which a loan of money may have been heretofore or hereafter may be made and secured.

Sec. 4. All non-resident aliens who may hereafter acquire real estate in Texas by devise, descent or by purchase, under the provisions of this act may hold the same for ten years; provided, that any such non-resident alien, if a minor, may hold such real estate for ten years from the time of reaching his or her majority, or if of unsound mind, for ten years after the appointment of a legal guardian.

Sec. 5. Any alien who shall hereafter hold lands in Texas in contravention of the provisions of this act may, nevertheless, convey the fee simple title thereof at any time before the institution of escheat proceedings as hereinafter provided; provided, however, that if any such conveyance shall be made by such alien, either to an alien or to a citizen of the United States, in trust and for the purpose and with the intention of evading the provisions of this act, such conveyance shall be null and void, and any such lands so conveyed shall be forfeited and escheat to the state absolutely.

Sec. 6. It shall be the duty of the attorney general, or the district or county attorney, when he shall be informed or have reason to believe that lands in this state are being held contrary to the provisions of this act, to institute suit, in behalf of the State of Texas, in the district court of the county where such lands are situated, praying for the escheat of the same, on behalf of the state, as in cases of estates of persons dying without devise thereof and having no heirs; provided, before any such suit is instituted, the attorney general, district or county attorney as the case may be, shall give ninety days notice by registered letter of his intention to sue, directed to the owner of said land or the person who last rendered same for taxes, or his agents, and to all other persons having an interest in such lands, of which the plaintiff has actual or constructive notice.

Sec. 7. If it shall be determined upon the trial of any such escheat proceedings that lands are held contrary to the provisions of this act, the court trying said cause shall render judgment condemning such lands and shall order the same to be sold as under execution; and the proceeds of such sale, after deducting cost of such suit, shall be paid to the clerk of such court so rendering judgment, and said fund shall remain in the hands of such clerk for one year from the date of such payment, subject to the order of the alien owner of such lands, or his heirs or legal representatives; and if not claimed within the period of one year, such clerk shall pay the same into the treasury of the state for the benefit of the available school fund of the State of Texas; pro-

vided, that when any moneys shall have been paid to the treasurer as hereinbefore provided, an alien, his heirs or assigns, may recover the same from the state in the same manner provided in articles 2155, 2156, 2157, 2158, 2159 and 2163 of chapter 27, title 37, of the Revised Civil Statutes of the State of Texas, relating to the recovery of funds of estates of decedents by the heirs and etc, where the same has been paid into the treasury by the administrator or executor; provided that the defendant at any time before final judgment may suggest that he has now conformed with the law, which being admitted or proved, said suit shall be dismissed on payment of costs and a reasonable attorney fee to be fixed by the court.

Sec. 8. All laws and parts of laws in conflict with the provisions of this act are hereby repealed.

Sec. 9. The short time of the remainder of the session of the legislature, and the large amount of business pending before the legislature, creates an imperative public necessity requiring that the constitutional rule which requires bills to be read on three several days be and the same is hereby suspended.

Approved April 12, 1892.

PUBLIC EDUCATION—SCHOOL FUND.

Sec.

1. One per cent of permanent fund transferred to available fund.

2. Board of education to make estimates.

3. Transfer to be made by treasurer

Sec.

and comptroller; unsold public lands not included in estimates.

4. Annual cash reserve for transfer to available fund.

5. Emergency clause.

CHAP. 9.—[H. B. No. 14.] An act carrying into effect constitutional amendment to article 7, section 5, transferring annually one per cent of the permanent to the available school fund.

Section 1. Be it enacted by the Legislature of the State of Texas: That one per cent of the full value of what is known, held and controlled by the State of Texas, as the permanent school fund, shall be transferred annually hereafter to the credit of the available school fund of the state, as belonging to it, and a part of the same, and which henceforward shall constitute a part of the state's available school fund and to be used and applied for the support, maintenance and benefit of the public free schools of the state, as now or hereafter may be provided by law.

Sec. 2. Be it further enacted: It shall be the duty of the comptroller and the state treasurer to notify the state board of education of the amount to the credit of the permanent school fund on the first to the fifteenth day of July of each and every year. The said statement shall show the amount invested, in bonds, the amount of outstanding land notes, and the amount of cash on hand to the credit of the permanent school fund. Upon the receipt of this information the state board of education shall estimate one per cent of the said permanent school fund and shall issue directions to the said comptroller and state treasurer to transfer the one per cent of the permanent fund thus found to the credit of the available school fund.

Sec. 3. Be it further enacted: That it shall be the duty of the state comptroller and state treasurer, upon the receipt and delivery to them, by said board of education, of the showing and statement aforesaid, as set forth in section 2 of this act, to transfer and place to the credit

of the available school fund of the state the amount found and ascertained by said board of education, as aforesaid, and accruing from the one per cent of the value of the permanent school fund, and transferred to the available school fund under section 1st of this act. Provided that no part or the value thereof, of the unsold public land belonging to said fund shall be included or considered by the comptroller and state treasurer in ascertaining the amount to be transferred from the permanent to the available free school fund.

Sec. 4. Be it further enacted: That it shall be the duty of the state board of education and comptroller, in the management and investment of the permanent school fund, to provide, reserve and set apart in cash, annually, an amount sufficient of same to meet the one per cent annual transfer to the available fund.

Sec. 5. The fact that the session is short, which renders it improbable that this bill can be considered in three several days, and that it is desirable and proper that this bill should go into effect at once, creates an emergency and an imperative public necessity for the suspension of the constitutional rule, requiring bills to be read on three several days, and said rule is hereby suspended, and that this act take effect from and after its passage, and it is so enacted.

[Note—The foregoing act originated in the house, and passed the same by a vote of ayes 64, noes 32, and passed the senate April 11, 1892—vote not given.]

Approved April 12, 1892.

GUARDIAN AND WARD—SALES.

Sec.

1. Adds articles 2589a and 2589b to Revised Statutes, and amends articles 2578 and 2581.

Article 2578. Sales may be wholly or partly for cash, and public or private.

Article 2581. Terms of sale when made partly on credit; notes, etc.

Sec.

Article 2589a. Real estate may be mortgaged, when.

Article 2589b. Renewal of evidences of debt, when allowed.

2. Emergency clause.

CHAP. 10.—[S. B. No. 23.] An act to amend articles 2578 and 2581 of chapter ten (10) of the Revised Civil Statutes of the State of Texas, and to add thereto article 2589a, providing for a hypothecation of lands belonging to an estate in the hands of a guardian, and article 2589b, providing for the novation of existing indebtedness of estates in guardianship.

Section 1. Be it enacted by the Legislature of the State of Texas: That articles 2589a and 2589b be added to chapter ten (10) of the Revised Civil Statutes of the State of Texas, and that articles 2578 and 2581 of said chapter 10 be amended so as to read as hereinafter set forth:

Article 2578. A sale of real estate may be ordered by the court for cash, or for part cash and part credit, or wholly on credit, and if wholly on credit then for no longer period than twelve months, at public auction or at private sale as it may appear to the court to be most to the advantage of the estate.

Article 2581. The terms of sale of real estate when made partly on credit shall be that the cash payment be not less than one-fifth of the purchase price, and that the purchaser give his note or notes for the deferred payments maturing in equal annual amounts, the last note to mature not later than five years from date of deed, said notes to bear interest from date at a rate of interest of not less than six (6) per centum payable annually, and in default of the payment of principal or

interest or any part thereof when due shall mature the whole debt; all notes for deferred payments to be secured by vendor's lien, retained in deed and notes upon the property sold, except where improved property or timbered lands are sold, in which exceptions the cash payment shall not be less than one-third of the appraised value of the property so sold. If a sale be made wholly for credit the purchaser's note must be secured by vendor's lien upon the property sold, and he shall also be required to furnish good personal security in addition to said lien, and the rate of interest shall not be lower than is provided in case of sales for part credit, and in every case the deferred payments shall be made payable in the county where the guardianship is pending.

Article 2589a. Should an estate in the hands of a guardian be involved in debt, and upon proper showing made to the court it shall appear that the guardian can pay off and discharge existing debts to the advantage of the estate by the hypothecation or mortgage of real estate at a lower rate of interest, or upon more advantageous terms than the old indebtedness, the court may, in its discretion, by order made for that purpose, allow the guardian to pay off and discharge existing debts by the execution of a good and sufficient mortgage or deed of trust upon real estate to secure the person furnishing the money with which to discharge said indebtedness. Acts of guardians under this article to be reported to the court and approved as in case of sales. Nor shall any guardian renew any indebtedness or evidence thereof except by order of the court made upon application and notice as in case of sales of land.

Article 2589b. Should a guardian not have sufficient funds in hand belonging to the estate of his ward to pay and discharge any existing debt, he may renew the evidence of the same in like manner as his ward could were he able to act, and such act of the guardian shall have the same force and effect with reference to such novated paper as if done by the ward. Provided, no such order shall be made if any creditor of said ward interpose any objection to the same before said order is granted. Provided, that no such guardian shall renew the evidences of any debt against the estate of his ward which shall become barred by the statutes of limitations, nor shall such guardian renew the evidences of any debt that may have been made or contracted by his ward during his minority or other disabilities.

Sec. 2. The fact that the law upon the subject of guardian and ward is in a most unsatisfactory condition, and that the enactment of a law providing for the amendments herein set out is of great importance, creates an emergency and imperative public necessity that the rule requiring bills to be read on three several days in each house be suspended, and that this act take effect from and after its passage, and it is so enacted.

[Note.—The foregoing act originated in the senate, and passed the same April 9, 1892, and passed the house April 11, 1892—vote not given.]

Approved April 12, 1892.

LIVE STOCK—PROTECTION OF.

Sec.

1. County judge on affidavit made, to order examination of animals; oath of inspectors.
2. Reports to county judge; duty of inspectors.
3. Condemned animals to be killed.

Sec.

4. Payment for animals killed; sheriff's fees.
5. Penalty for riding or driving infected animal on public highway.
6. This act is cumulative.
7. Emergency clause.

CHAP. 11.—[H. B. No. 27.] An act to prevent the spread of glanders and farcy among horses and other live stock in this state, and to provide a penalty for driving, riding or leading any animal infected with such diseases along or across any public highway in this state knowing them to be so infected, or permit such to run at large.

Section 1. Be it enacted by the Legislature of the State of Texas: That if at any time it shall come to the knowledge of any county judge of any county in this state, by affidavit of any credible citizen of his county, stating that affiant has reason to believe and does believe that glanders or farcy exists among any horses, mules, jacks or jennets in said county, naming owner or owners of such animal or animals so infected, if known, if unknown so stating, it shall be the duty of such county judge, upon the filing of said affidavit, to immediately appoint three disinterested and intelligent citizens of said county, whose duty it shall be to carefully and minutely examine said animal or animals so reported to be diseased with glanders or farcy; said three citizens before entering upon the duties required of them by this act, shall take an oath before some officer legally qualified to administer oaths, that they will discharge their duties as prescribed by this act in a fair and impartial manner.

Sec. 2. If, after carefully and minutely examining the animal or animals so reported to be affected with glanders or farcy, said three citizens shall be of the opinion that the animal or animals so examined by them are diseased with glanders or farcy, they shall condemn the same and it shall be their duty to appraise such animal or animals at their just and full value at the time of such examination and condemnation, and shall forthwith report their action in writing to the county judge, giving in said report the number of animals condemned, if any, the owner or owners of same if known, and if unknown so stating it, with the appraised value of same. But if the said citizens have any reasonable doubt as to the diseased animals being affected with glanders or farcy, before condemning as above provided for, they shall require the owner or owners to have said diseased animals separated from contact with all other animals subject to contagion, for a reasonable time, and when they are fully satisfied that the disease is glanders or farcy, then they shall proceed to condemn and destroy said animals as provided for in this section.

Sec. 3. The county judge, upon the receipt of the report named in section 2 of this act, shall issue his order to the sheriff or any constable of his county commanding him to seize said diseased animal or animals and take same to some secluded place and kill them and bury or burn the carcass.

Sec. 4. After the said diseased animal or animals are killed, as provided in section 3 of this act, it shall be the duty of the county clerk, upon the written order of the county judge, to issue a warrant or warrants of the county, payable out of the general revenue, in favor of the owner or owners of said animal or animals so killed, for the amount of the value, as diseased, if the animal has any value, as appraised

by said citizens who examined and condemned same. The sheriff or constable killing, burning or burying said animal or animals shall be paid by the county such sum as the commissioners' court thereof may determine their services worth.

Sec. 5. Any person who may drive, lead or ride any animal infected with said diseases of glanders or farcy, knowing them to be so infected, on, along or across any public highway in this state, or allow any such animal so diseased (knowing them to be so diseased and owning such animal) to run at large on the open range of any county in this state, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not less than ten dollars nor more than two hundred dollars.

Sec. 6. This act does not repeal any law now in force for the prevention of glanders or farcy, but is cumulative thereto.

Sec. 7. Whereas, there is now no existing law to protect the live stock of this state from the spread of the diseases of glanders and farcy, an imperative public necessity and emergency exists, requiring that the constitutional rule requiring bills to be read on three several days in each house be suspended, and it is hereby suspended.

Approved April 12, 1892.

LIENS—MECHANICS, ETC.

- Sec. 1. Repeals section 17, act of April 5, 1889.
2. Emergency clause.

CHAP. 12.—[H. B. No. 47.] An act to repeal section seventeen of an act entitled "An act to provide for the speedy and efficient enforcement of the liens of mechanics, contractors, sub-contractors, builders, laborers, and material men, and to repeal all existing laws and parts of laws in conflict with the provisions of this act," approved April 5, 1889.

Section 1. Be it enacted by the Legislature of the State of Texas: That section seventeen of the above entitled act, be and the same is hereby repealed.

Sec. 2. The shortness of the present session of this legislature, the vast amount of business now pending before the legislature, and the crowded condition of the calender of same, creates and there exists an imperative public necessity requiring that the rule requiring that bills be read on three several days be and the same is hereby suspended, and it is so enacted.

Approved April 12, 1892.

ELECTIONS—REGISTRATION.

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| <p>Sec.</p> <ol style="list-style-type: none"> 1. Registration in cities of 10,000 inhabitants or more on petition of 500 citizens. 2. No elector shall vote without registering. 3. Information to be given the registrar. 4. Appointment of registrar; term of office. 5. Duty of registrar. 6. Oath of office; certificate of appointment. 7. Appointment of deputies. 8. Registration books. 9. Place of registration; notice. 10. Fees of registrar. 11. Books and stationery. 12. Books and certificates shall show what. (See Sec. 17.) 13. List of registered voters to be furnished managers of elections. 14. Penalty for illegal registration. 15. Registrar authorized to administer oaths; penalty for false swearing. 16. Registrar may demand proof of right to register. 17. Certificates to show what; to be presented to judges of election. 18. Voted certificates, how marked and preserved. | <p>Sec.</p> <ol style="list-style-type: none"> 19. List of registered voters to be delivered to county clerk or city secretary; how preserved. 20. Evidence required in case of lost certificate. 21. Who are entitled to register. 22. Penalty for issuing illegal certificates. 23. Arrangement of voting booths. 24. Ballots, how prepared and furnished. 25. Same. 26. Not more than one person at one time to occupy a compartment. 27. Judges may prepare ballots when voter is unable to write. 28. Electioneering at polls, removing or marking of ballots, etc., prohibited; penalty. 29. Other offenses declared and penalty prescribed. 30. Cities may adopt methods to protect the purity of the ballot box. 31. Repealing clause. 32. Emergency clause. |
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CHAP. 13.—[H. B. No. 10.] An act to provide for the registration of all votes in all cities containing a population of ten thousand inhabitants or more, and to protect the purity of the ballot in said cities, and to provide penalties for the violation of the same.

Section 1. Be it enacted by the Legislature of the State of Texas: That in all cities in this state having a population of ten thousand inhabitants or more, to be determined by the last United States decennial census, or by a census provided for by the commissioners court of the county where said election is to be held, there shall, upon the petition of five hundred citizens of such city, be, prior to each general election, either state, county or municipal, had a registration of all voters in said city in the manner hereinafter provided.

Sec. 2. Each qualified elector of such city, under the constitution and laws of this state, shall be entitled to register; but no elector of such city who fails to register under the provisions of this act shall vote at any state, county, or city election for which registration is had under the provisions of this act.

Sec. 3. Each person offering to register under the provisions of this act shall give to the registrar hereinafter provided for, under oath if demanded, the following information, to-wit: His name, the street and number of his place of residence, the number of the ward in which he resides, and such other information touching his qualification as a voter in the city as may be necessary to establish his right to registration. Should the place of his residence not be numbered, then he shall give such description of his place of residence as will enable the same to be correctly located.

Sec. 4. There shall be appointed by the commissioners' court of each county in which there is located a city having a population of ten thousand inhabitants or more, one registrar of all the voters of each such city in said county, who shall be a qualified elector of the city, and shall hold his office for two years, and until his successor shall have been appointed and qualified.

Sec. 5. It shall be the duty of the registrar provided for in the preceding section, to register all the qualified electors of such city as is hereinafter provided, and to do and perform all other duties required of him by the provisions of this act.

Sec. 6. Said registrar shall when appointed, and before entering upon his duties as such, take and subscribe before some officer authorized by law to administer oaths, the oath of office prescribed by the state constitution for all state and county officers; which said oath of office shall be filed with the county clerk of the county in which such registrar is appointed. Upon the filing of said oath of office with the county clerk as herein provided, the county clerk shall issue to said registrar a certificate of his appointment and qualification, which said certificate shall be sufficient authority for the said registrar to do and perform all the official duties herein prescribed and required.

Sec. 7. Said registrar shall have authority to appoint and employ as many deputies, or assistants, who shall be qualified electors of said city, as may be necessary to the prompt and efficient discharge of his official duties; provided, there shall be appointed one deputy from each political party, if demanded by the chairman of the county executive committee of the party in said county two days prior to the opening of the registration books as in [is] hereinafter provided.

Sec. 8. Said registrar shall open the books of his office for the registration of all the voters in the city, on the first Tuesday of the month preceding and prior to the month in which the election is held for which registration is required under the provisions of this act; and said registrar shall keep the same open for the registration of voters for twenty consecutive days, Sunday excluded, from 8 a. m. till 8 p. m. of each day and no longer.

Sec. 9. Said registrar shall keep his office during the registration of the voters, in some convenient room or place; notice of the time and place of each registration of voters shall be given in some daily newspaper published in said city, for at least five consecutive days prior to the day of beginning such registration and during the time of such registration. But should there be no daily newspaper published in the said city, then notice may be given by printed hand bills, posted throughout the city for five consecutive days prior to the beginning of the registration and during the time of such registration. The publication of which notice shall be paid for in all state and county elections by the commissioners' court of the county, out of the general revenue fund of said county; and for all city elections, by the city council, out of the general revenue funds of the city.

Sec. 10. The registrar shall receive as compensation in full, for all services herein required, eight cents for each certificate of registration issued, to be paid in all state and county elections by the commissioners' court of the county out of the general revenue funds of the county; and in all city elections, by the city council of the city, out of the general revenue funds of the city. Upon the completion and delivery of the work as hereinafter provided, to the county clerk in all state and county elections, and to the city secretary in all city elections, the commissioners' court, or the city council, as the case may be, shall cause to be issued to the registrar a warrant on the treasurer for the full amount due on said work as herein provided, which shall be full compensation for all services performed.

Sec. 11. The commissioners' court shall furnish and supply the registrar with all necessary books, stationery and blank certificates of registration, and an office in which to perform all the necessary work of registration during the time he is necessarily engaged in the regis-

tration of voters as herein provided; but in all city elections the city council shall furnish and supply them.

Sec. 12. The registrar's books shall contain a list of all registered voters of the city, with the number of the certificate issued written opposite the name of the holder of the certificate, and the number of the ward in which the voter resides, and shall also indicate the color, or nationality of the holder of the certificate, or such other information as will enable the judges of election to determine the identity of the holder of the certificate, and shall also show the street and number of the residence of the voter, or such other information as will enable his place of residence to be correctly located.

Sec. 13. The registrar shall make a list of all the registered voters of his city for the use of the managers of the election of each ward in the city, which list shall be a true copy of his books as is required and provided for in section 12 of this act, which said lists shall be made out and filed with the county clerk, or city secretary as the case may be, at least five days prior to the day of election, which said lists shall then be furnished the presiding officer of the election of each ward in the city, as other election papers are furnished such presiding officers of election.

Sec. 14. Any person who shall illegally register as a qualified voter of any city under the provisions of this act, shall be deemed guilty of a felony, and upon conviction in any court of competent jurisdiction, shall be punished by confinement in the penitentiary for not less than one year, nor for more than two years.

Sec. 15. The registrar herein provided for is hereby authorized and empowered to administer all necessary oaths to applicants for registration, and also to all witnesses touching the qualifications of applicants for registration, and any person who shall swear falsely about his own qualifications as a voter of the city, or any person who shall, as a witness for the applicant for registration, swear falsely about the qualifications of such applicant, shall be deemed guilty of false swearing, and upon conviction in any court of competent jurisdiction, shall be punished as is provided by law for the punishment of false swearing in other cases.

Sec. 16. Should the registrar have doubts, or not be satisfied as to the qualifications of the applicant for registration, he may, in addition to the oath of the applicant for registration, demand proof of the right of such applicant to register, before he shall issue to such applicant a certificate of registration; which proof shall consist of the sworn testimony of two well known citizens of the city, if demanded. Which oath or oaths shall be sworn and subscribed to by the applicant and by each of his witnesses separately, and the said oaths shall be filed and kept as a part of the records of the registrar's office.

Sec. 17. Each person who shall register under the provisions of this act shall receive a registration certificate, which shall be numbered to correspond with the number of registered certificates issued, and which shall in addition to the name of the holder, be dated and signed by the registrar, which certificate shall be preserved and presented to the judges of the election, and should the person presenting such certificate not correspond with the description of the person to whom issued, as appears on the registrar's books, then he shall not vote until he shall have satisfied the judges of the election of his right to vote.

Sec. 18. Each certificate of registration when presented and voted,

shall have stamped or written thereon, by one of the judges of election, the word "Voted." No certificate shall be voted unless it corresponds with the name and number on the list of registered voters herein provided for, and the holder shall correspond with the other information contained on the list of registered voters furnished the managers of the election as herein provided, or that the judges of the election are satisfied that the holder of the certificate is the person to whom it was issued; and when voted, one of the judges of the election shall write or stamp opposite the name of the holder, the word "Voted" on the list. And when a certificate has been voted it shall be considered as exhausted, and shall be placed by one of the judges of the election in a closed box, and when the election is closed said box and contents shall be sealed up and deposited with the county clerk or city secretary, as the case may be, after having been labeled "Registered Certificates," and said box and contents shall be preserved by the said clerk or city secretary as is provided by law for the preservation of the ballots of the election.

Sec. 19. The list of registered voters shall at the close of the election be placed by the managers of the election in the envelope covering the returns to be delivered to the county clerk or city secretary as is provided by law, and shall be preserved by such officer in the same manner as is provided for the preservation of election returns thus made.

Sec. 20. Any person offering to vote in a city at any election for which registration has been had of all the voters of such city, shall not vote unless he presents a certificate of registration, as herein provided, or in case he has lost or mislaid his certificate, he shall so state, and if his name shall appear on the registered list, and he is known to the judges to be the person whose name thus appears on the registered list, or can furnish satisfactory evidence that he is the person whose name appears on the said list, then he shall be entitled to vote, provided the certificate has not been previously voted, in which case he shall not vote; and, provided further, that when any person does vote without presenting his certificate of registration as herein provided, then one of the judges or managers of the election shall stamp or write opposite his name on the registration list, the words "Voted. Certificate lost."

Sec. 21. Every male person who shall have become of the age of twenty-one (21) years by the day of election, and shall be otherwise a qualified elector, or shall have become a qualified voter of the city by the day of the election for which the registration is made, and is a bona fide citizen of the city in which he offers to register, shall be entitled to register as a qualified voter of the city, provided he shall establish the same as is herein provided.

Sec. 22. Any registrar who shall knowingly issue a registration certificate to any person not legally entitled to register under the provisions of this act, or who shall knowingly issue, or cause to be issued, a certificate of registration to any imaginary or fictitious person, shall be deemed guilty of a felony, and upon conviction in any court of competent jurisdiction shall be punished by confinement in the penitentiary for not less than one year, nor more than two years, for each and every such registration certificate so issued.

Sec. 23. The following safeguards and regulations shall be observed to secure the voter from interference while casting his ballot

at said elections, to-wit: The polling places in the several precinct[s] in the city shall be provided with a guard rail, so constructed and placed that only such persons as are inside said rail can approach within six feet of the ballot boxes or compartments or booths at which electors are to prepare their ballots for voting. The arrangements shall be such that neither the ballot boxes or the voting booths or the electors while preparing their ballots shall be hidden from view of those just outside of the said guard rail or from the judges; and yet the same shall be far enough removed and so arranged that the elector may conveniently prepare his ballot for voting with secrecy. There shall be provided in each polling place not less than one such compartment or booth for every fifty electors to vote at such polling place; and every polling place shall have at least three of such compartments or booths which shall be made with three sides closed and the front side open and in size 32 inches wide, 32 inches deep, and 6 feet 4 inches high, containing a shelf, and shall be arranged with hinges to fold up when not in use, convenient for storage. The county judge, county clerk, and sheriff of each county shall constitute a board, a majority of whom may act, to provide the voting booths or compartments and guard rails required by this act. When said appliances have been provided, said board shall file with the county commissioners court a written report of their action, giving a detailed statement of the expenses incurred in providing said booths and guard rails, and it shall be the duty of said court to certify to the comptroller of public accounts the amounts due and to whom due and the number of booths and feet of guard rails provided. Upon receipt of said certificate the comptroller shall issue his warrant upon the state treasurer in favor of the parties to whom said account is due for one-half of said amount and the same shall be paid out of the state treasurer [treasury] and the residue thereof shall be paid by the respective counties. During the election and counting of ballots, no person other than the judges and clerks of elections, and the electors, admitted as herein provided for the purpose of providing their ballots and voting, shall be admitted or permitted to be within said rail.

Sec. 24. All ballots used by the voters at said elections shall be furnished by the officers conducting said election upon which shall be printed the names of all candidates for state, county, precinct, or city officers [offices] upon one ticket and arranged according to the respective parties to which the candidates may belong, and whenever a voter has been furnished with a ballot by any officer conducting the election the presiding officer shall stamp with a rubber stamp provided for this purpose the words "Official ballot" and no ballot cast without said words stamped upon it by the said presiding officer shall be counted at said election.

Sec. 25. All ballots used at any election shall be upon substantially the same character of paper which shall be white and any candidate shall have the right to have ballots printed such as are named in the preceding section which he must furnish to the presiding officer at least one day before the day of the holding of the election.

Sec. 26. Not more than one person shall at one time be permitted to occupy any one compartment or place provided for electors to prepare their ballots, except when an elector is unable to prepare his ballot he may [be] accompanied by the two judges to assist him, and

no person shall remain in or occupy any such compartment longer than may be necessary to prepare his ballot.

Sec. 27. Any elector who declares to the presiding officer that he cannot read or write or that by blindness or other physical disability he is unable to prepare his ballot, shall upon request receive the assistance of two of the judges in the preparation thereof.

Sec. 28. Any officer upon whom a duty is imposed by this act, who shall disclose to any person the name of any candidate for whom any elector has voted or gives any information by which it can be ascertained for whom any elector has voted, or any judge or clerk of election or other officer about the polls who shall do any electioneering on election day, or any person who shall do any electioneering on election day within any polling place or within thirty feet of any polling place, or any person who shall remove any ballot from any polling place, or any person who shall knowingly apply or receive any ballot in any polling place other than that in which he is entitled to vote, or any person who shall show his ballot after it is marked to any person in such a way as to reveal the contents thereof, or the name of the candidate or candidates for whom he marked his ballot, or any person who shall, contrary to this act, examine his ballot or solicit the voter to show the same, or person other than an officer of election who shall deliver any ballot to an elector, or any elector who shall deliver a ballot to the presiding officer to be voted, except the one he received from the election officer, or any elector or any one who shall, contrary to the provisions of this act, place any mark upon or do anything to his ballot by which it may afterward be identified as the one voted by any particular individual, upon conviction shall be punished by a fine not less than fifty dollars and not more than five hundred dollars, or by imprisonment in the county jail not less than three months nor more than one year or both, in the discretion of the court.

Sec. 29. Any judge or clerk of election who shall wilfully disregard any of the provisions of this act, or who shall negligently fail to enforce any of the provisions of this act or who shall, in counting the ballots or making the returns thereof, wilfully disregard any of the directions or requirements of this act, or any person who shall wilfully alter or destroy any ballot cast at an election or any of the returns of an election regulated by this act, or who shall introduce among the genuine ballots a fraudulent ballot, or any person who shall falsely write the initials of the presiding officer or any writing upon the ballot purporting to be written by the clerk or presiding officer, or any person who shall steal any of the ballots or returns, or wilfully or fraudulently hinder or delay the delivery of any election returns to the county clerk, or wilfully break open any of such sealed returns of any election regulated by this act, upon conviction shall be punished by imprisonment in the penitentiary not less than one year nor more than three years, or by fine of not less than five hundred dollars, nor more than two thousand dollars, or by both such fine and imprisonment.

Sec. 30. Cities containing a population of ten thousand inhabitants or more may through their city councils adopt such methods not inconsistent with this act to protect the purity of the ballot in elections held at their municipal elections.

Sec. 31. All laws and parts of laws in conflict with the provisions of this act are hereby repealed, in so far as they conflict with the provisions of this act.

Sec. 32. The importance of preserving the purity of the ballot box, and limited time allotted this session of the legislature for the consideration of the business before it, creates an imperative public necessity which justifies the suspension of the constitutional rule which requires bills to be read on three several days in each house, and said rule is so suspended.

Approved April 12, 1892.

SUPREME COURT.

Sec.

1. Amends certain articles in title 39 of Revised Statutes.
- Article 1002. Election and tenure of office of judges.
- Article 1005. Term of court.
- Article 1011. Appellate jurisdiction.
- Article 1011a. Writs of error, when granted.
- Article 1011b. Petition for writ of error, requisites of; bond.
- Article 10011c. Writ granted when petition shows error.
- Article 1011d. Court to make rules, etc., to carry foregoing articles into effect.
- Article 1011e. May ascertain matters of fact.
- Article 1012. May issue what writs.
- Article 1014. May make rules and regulations.
- Article 1017. Clerk, appointment of; bond.
- Article 1019. Clerk's term of office; salary.
- Article 1023. Clerk may appoint deputies; salary.
- Article 1024. Clerk is librarian.
- Article 1025. Duties of librarian.

Sec.

- Article 1033. Trial to be on questions of law.
- Article 1039. Filing of briefs.
- Article 1043. No reversal or dismissal for want of form.
- Article 1044. No abatement on death of parties, when.
- Article 1049. Judgment against plaintiff in error, and his sureties.
- Article 1050. When judgments become final; issuance of mandate.
- Article 1056. Process, how tested, directed and executed.
- Article 1057. Judgment enforced, how.
- Article 1058. Clerk not compelled to issue mandate until costs are paid.
- Article 1060. Officer failing to make return.
2. Reporter to supreme court.
3. Repealing clause.
4. Transfer of causes to courts of civil appeals.
5. Records at Tyler and Galveston transferred to Austin.
6. Emergency clause; law takes effect on September 1, 1892.

CHAP. 14.—[J. C. S. for S. B. No. 33 and H. B. No. 12.] An act to amend articles numbers 1002, 1005, 1011, 1012, 1014, 1017, 1019, 1023, 1024, 1025, 1033, 1039, 1043, 1044, 1049, 1050, 1056, 1057, 1058, 1060, of the Revised Civil Statutes of Texas, and to add articles 1011a, 1011b, 1011c, 1011d, 1011e, and to repeal articles numbers 1006, 1007, 1008, 1009, 1034, 1035, 1036, 1037, 1038, 1045, 1046, 1048, of the same title of the Revised Civil Statutes of Texas, and to provide for the transfer of cases pending in the supreme court to the court of civil appeals.

Section 1. Be it enacted by the Legislature of the State of Texas: That articles, numbers 1002, 1005, 1011, 1012, 1014, 1017, 1019, 1023, 1024, 1025, 1033, 1039, 1043, 1044, 1049, 1050, 1056, 1057, 1058, 1060, title 39, of the Revised Statutes of Texas be and the same are hereby so amended as to read as follows:

Article 1002. That the chief justice and associate justices of the supreme court shall be elected by the qualified voters of the state at a general election. The judges of said court now in office shall hold their office until the expiration of the term for which they were elected, and until their successors are elected and qualified. As soon as practicable after the election of the successors to the present incumbents, the newly elected judges shall cast lots for the term of office. That one who shall draw number one shall hold his office for two years; the one drawing number two shall hold his office for four years, and the one drawing number three shall hold his office for six years; each to hold his office until his successor is elected and qualified; and each justice of the supreme court elected thereafter shall hold his office for

six years and until his successor is elected and qualified, and shall each receive an annual salary of four thousand dollars.

Article 1005. The supreme court shall hold one term each year at the city of Austin, commencing on the first Monday in October of each year and may continue until the last Saturday in the next June.

Article 1011. That the supreme court shall have appellate jurisdiction co-extensive with the limits of the state, which shall extend to questions of law arising in all civil cases of which the courts of civil appeals have appellate but not final jurisdiction.

Article 1011a. All causes shall be carried up to the supreme court by writs of error issuing from the supreme court to the courts of civil appeals upon final judgment and not on judgments reversing and remanding causes except in the following cases, to-wit:

(1) Where the state is a party or where the railroad commissioners are parties.

(2) Cases which involve the construction and application of the constitution of the United States or of the State of Texas or of an act of congress.

(3) Cases which involve the validity of a statute of the state.

(4) Cases involving the title to a state office.

(5) Cases in which a civil court of appeals overrules its own decisions or the decision of another court of civil appeals or of the supreme court.

(6) Cases in which the judges of any court of civil appeals may disagree.

(7) Cases in which any two of the courts of civil appeals may hold differently on the same question of law.

(8) When the judgment of the court of civil appeals reversing a judgment practically settles the case, and this fact is shown in the petition for writ of error.

Article 1011b. Any party desiring to sue out a writ of error before the supreme court, shall present his petition to said court stating the names and residences of the parties adversely interested, with a brief statement of the nature of his case and the ground upon which the writ of error is prayed, and it must appear that the errors complained of arose upon questions of law, the determination of which were necessary to the decision of the cause in the court of civil appeals, and that said questions was [were] properly presented to said court, and it must further appear that the supreme court would have jurisdiction thereof; and the petition shall contain such other requisites as may be prescribed by the supreme court. The petition must be accompanied with a certified copy of the conclusions of law and fact filed in the cause by the court of civil appeals, with the opinion thereof, together with a certified copy of the judgment in the trial court and of the bond given in the lower court, if any, and if plaintiff in error has given no bond, then the supreme court in granting the writ shall specify what bond shall be given, and the plaintiff in error shall file said bond in the trial court to be approved by the clerk of said court, and a certified copy thereof shall be at once transmitted to the supreme court, and upon the filing of said certified copy, the clerk of the supreme court shall issue citation in error as may be prescribed by the rules of the supreme court.

Article 1011c. If it shall appear to the supreme court from an inspection of the petition and record that there is error in said judg-

ment of the court of civil appeals, it shall grant a writ of error returnable in thirty days, in such manner as may be prescribed by said court.

Article 1011d. The supreme court shall from time to time make and promulgate suitable forms, rules and regulations for carrying into effect the foregoing articles relating to the jurisdiction and practice of the supreme court.

Article 1011e. The supreme court shall have the power, upon affidavit or otherwise, as the court may determine, to ascertain such matters of fact as may be necessary to the proper exercise of its jurisdiction.

Article 1012. The supreme court, or any justice thereof, shall have power to issue writs of habeas corpus as may be prescribed by law; and the said court, or the justices thereof, may issue writs of mandamus, procedendo, certiorari and all writs necessary to enforce the jurisdiction of said court; and in term time or vacation may issue writs of quo warranto or mandamus against any district judge or officer of the state government, except the governor of the state.

Article 1014. The supreme court shall have power to make, establish and enforce all necessary rules of practice and procedure, not inconsistent with the laws of this state, for the government of said court and all other courts of the state, so as to expedite the dispatch of business in said courts.

Article 1017. There shall be appointed for the supreme court one clerk who shall reside at the place of holding court, which appointment shall be made by the court or the judges thereof and shall be entered of record in the proceedings of the court; and each person so appointed shall, before he enters upon the duties of his office, take and subscribe the oath prescribed by the constitution, before some officer authorized to administer oaths generally, and shall enter into a bond with two good and sufficient sureties, to be approved by the court or judges thereof, payable to the governor and his successors in office, in the penalty of five thousand dollars, conditioned for the faithful performance of the duties of his office, and that he correctly records the judgments, decrees, decisions and orders of the said court, and deliver over to his successor in office all records, minutes, books and papers and whatever belongs to his said office of clerk, which bond and oath shall, without delay, be deposited in the office of the secretary of state, and shall not be void on first recovery, but may be put in suit and prosecuted by any party injured until the amount thereof be recovered.

Article 1019. The clerk of the supreme court shall hold his office for the term of four years from his appointment, but may be removed therefrom for neglect of duty or misconduct of office, by the supreme court, on motion, of which the clerk against whom complaint is made shall have ten days previous notice, specifying the particular charges of negligence or misconduct in office preferred; and in every such case, the court shall determine the law and the facts; and whenever the necessity occurs, the supreme court may appoint a clerk pro tempore. The clerk of the supreme court shall receive as compensation for his services, a salary of twenty-five hundred dollars per annum, and he shall collect and pay into the treasury of the state all fees and costs to be collected by him over and above the salaries allowed him and his deputies, under such further rules and regulations as shall be prescribed by the comptroller, not in conflict with this act: such rules and regulations to be subject to the approval of the judges of the

supreme court, to be entered of record in the minutes of said court. The supreme court shall also appoint a stenographer for said court at an annual salary of fifteen hundred dollars.

Article 1023. The clerk of the supreme court may appoint not more than two deputies at any time, whenever authorized to do so by a majority of the judges of the supreme court, which authority shall appear of record in the minutes of said court. Said deputies may discharge all the duties required by law of said clerk, and said deputies shall be required to give bond in the same manner and amount as the clerk of said court and to be approved by the judges of said court. Said deputies shall receive as compensation for their services such sum as shall be unanimously agreed on by the judges of the supreme court, this action to appear of record in the minutes of the court, not to exceed fifteen hundred dollars per annum, to be paid out of the fees collected by the clerk of said court; and the judges of the supreme court may dispense with the services of any or all of such deputies, or for any length of time whatever, as in their discretion they may deem to be to the public interest.

Article 1024. The clerk of the supreme court shall be librarian in charge of the library of said court.

Article 1025. It shall be the duty of such librarian to take charge of and keep together and in good order, and make catalogues of the books of said libraries, which shall be open to the public use under such rules as may be prescribed by the court for the safe keeping thereof; provided, the books shall not be removed from the library room except by the judges of the court and by members of the legislature during the session of the legislature, upon their receipt for the same to the clerk.

Article 1033. In all cases of writs of error or certificates of error to the supreme court, the trial shall be only upon the question of law upon which the writ of error was allowed, or which was certified to the supreme court from a court of civil appeals; but the supreme court may require at any time the original transcript to be sent up.

Article 1039. When any cause or suit may be taken to the supreme court by writ of error, the briefs and arguments filed in the court of civil appeals shall be submitted to the supreme court, and in addition thereto, the attorney for either party may file additional briefs, under such rules and regulations as may be prescribed by the supreme court. In cases appealed to the supreme court before the organization of the court of civil appeals, parties thereto shall not be required to file briefs in the supreme court, and shall have the time provided in the act of civil appeals for filing their briefs in the civil court of appeals after the cases have been transferred from the supreme court to the court of civil appeals.

Article 1043. There shall be no reversal or dismissal for want of form; provided, that the requirements of the law and the rules of the court be sufficiently complied with in presenting the case to enable the court to determine the same upon its merits. In each case the supreme court shall affirm the judgment, reverse and render the judgment which the court of civil appeals ought to have rendered, or reverse the judgment and remand the case to the lower court, if it shall appear that the justice of the case demands another trial.

Article 1044. If any party to the record, in any cause now pending in or hereafter taken to the supreme court or court of appeals, by ap-

peal or writ of error, shall have died heretofore, or shall hereafter die, after the appeal bond has been filed and approved, or after the writ of error has been served, and before such cause has been decided by the supreme court or court of civil appeals, such cause shall not abate by such death, but the court shall proceed to adjudicate such cause and render judgment therein as if all the parties thereto were living, and such judgment shall have the same force and effect as if rendered in the lifetime of all the parties thereto.

Article 1049. Whenever the supreme court on the trial of a cause brought from any court of civil appeals, shall affirm the judgment or decree of such court, or when said court shall proceed to render such judgment or decree as should have been rendered by the court of civil appeals, and such judgment shall be for the same or a greater amount, or of the same nature as rendered in the court below, said court shall render judgment against plaintiff in error and his sureties on his bond, a copy of which shall always accompany the transcript of the record.

Article 1050. The judgment of said court shall be final at the expiration of fifteen days from the rendition thereof, when no motion for rehearing has been filed; and upon the rendition of final judgment, the clerk of the supreme court, upon payment of costs, shall issue the mandate in the case. If for any cause the said court should set aside its judgment after the mandate has been issued, the clerk of the supreme court shall at once notify the party to whom the mandate was delivered, and the clerk of the court to which it was directed, to return it at once. All mandates from the said court shall issue to the court in which the original judgment was entered.

Article 1056. All writs and process issuing from the supreme court shall bear the test of the chief justice or presiding judge of said court, and be under the seal of said court and signed by the clerk thereof, and may be directed to the sheriff or any constable of any county in the state, and shall be by such officer executed according to the demand thereof, and returned to the court from which they emanated; and whenever such writs or process shall not be executed, the clerk of the said court is hereby authorized and required to issue another like process or writ upon the application of the party suing out the former writ or process to the same or any other county.

Article 1057. Upon the rendition by the supreme court of any such judgment or decree as is contemplated by article 1049, it shall not be necessary for the lower court from which the cause was removed to make any further order or decree therein, but the clerk of said lower court, on the receipt of the mandate of the supreme court or court of civil appeals, shall proceed to issue execution thereon as in other cases.

Article 1058. The clerk of the supreme court shall not deliver the mandate of the court until all costs of that court and of the court of civil appeals have been paid. If the costs have not been paid at the end of fifteen days from the date of judgment or from the overruling of a motion for rehearing, the said clerk may issue an execution for the costs of the supreme court and the court of civil appeals, specifying the amount of each, and attaching to said execution a correct list of all costs accruing in each of said courts. Said execution shall be directed to the sheriff or any constable of the county from which the cause was removed, or to any county in which the person or persons, liable under such execution, or either of them, may have property. It shall be the duty of every sheriff or constable receiving such execution to execute

and return the same under the same rules, regulations and liabilities as provided for executions from the district court.

Article 1060. In case any officer shall fail or refuse to make such return with the amount of such costs, if he has collected the same, within the time prescribed herein, or shall make a false or fraudulent return of any such execution, the clerk of said supreme court may issue citation returnable forthwith to such officer to appear before the said supreme court, and show cause, if any he can, why he has not collected and returned such costs and execution; and failing to show cause, said court may enter judgment against such officer and the sureties on his official bond for twice the amount of said costs, together with the cost of such proceeding. It shall be the duty of the clerk of the supreme court, when he shall receive any money due the clerk of any court of civil appeals, to pay the same over to such clerk of the court of civil appeals, and if he refuses to do so upon demand, the clerk of the said court of civil appeals may file in the supreme court a motion against the said clerk so failing, and upon ten days notice given to him the said supreme court may enter judgment against said clerk of the supreme court and the sureties on his official bond for double the amount of the costs so collected by him and due to said clerk of the court of civil appeals.

Sec. 2. The supreme court is authorized and required to appoint a reporter for its decisions, whose duties and compensation shall be the same as are now fixed by law, and he shall be subject to removal by the court for inefficiency or neglect or other good cause. The reporter shall be allowed such additional compensation for reporting the decisions of the civil courts of appeal as the supreme court shall deem just; and the court may appoint a bailiff to attend the sitting of the court who shall receive an annual salary of three hundred dollars.

Sec. 3. Be it further enacted, That articles numbers 1006, 1007, 1008, 1009, 1034, 1037, 1038, 1045, 1046, 1048, of title 36, of the Revised Civil Statutes of Texas, be and the same are hereby repealed. All laws in conflict with the provisions of this act be and the same are hereby repealed.

Sec. 4. All causes that may be pending in the supreme court of Texas, when the civil courts of appeals shall have been organized, shall be transferred by said supreme court to the court of civil appeals to which it would be returnable under the law organizing such courts, and shall be decided under the same rule as obtained when any such appeal was perfected. Said causes shall be accompanied by a certified copy of all orders made by said supreme court, together with a certified copy of all costs which have accrued therein; and when said cause has been finally disposed of by said court of civil appeals, the clerk of said court shall include said costs in the bill of costs accruing in said court of civil appeals, and shall collect the same at the same time and in the same manner as the costs which have accrued in the court of civil appeals, and when so collected he shall pay the same over to said clerk of the supreme court. That all bonds and obligations theretofore given in said cause to abide the judgment, sentence or decree of said court, or to pay the costs of said court, shall be deemed and held to apply to said civil court of appeals as if hereafter given under the provisions of this act.

Sec. 5. All records that have been finally disposed of by the supreme court, remaining at the Tyler and Galveston branches, when this act

goes into effect, shall be transferred to said court at Austin; and the supreme court shall make such orders as may be necessary to carry this law into effect, and shall allow the clerk at Austin such compensation as they may deem just and reasonable for arranging and classifying said records and placing them in the transcript rooms.

Sec. 6. The fact that the present session of the legislature is limited and rapidly drawing to a close, and the importance of this bill becoming a law, creates an emergency and imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and said rule is suspended, and this act shall take effect and be in force from and after September 1, 1892.

Approved April 13, 1892.

COURTS OF CIVIL APPEALS.

Sec.

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CHAP. 15.—[J. C. S. for S. B. No. 32 and H. B. No. 11.] An act to organize the courts of civil appeals, to define their jurisdiction and powers and to prescribe the mode of procedure therein.

Section 1. Be it enacted by the Legislature of the State of Texas: That each of the courts of civil appeals now or hereafter organized in this state shall consist of a chief justice and two associate justices, and the concurrence of two justices shall be necessary to the decision of a case.

Sec. 2. The chief justice and associate justices of each of the courts of civil appeals shall be elected by the qualified voters of the respective districts composed of the counties returnable to the several courts at a general election. Upon their qualification, after the first election after the creation of any court of civil appeals in this state, the justices

thereof shall draw lots for the terms of office, and those drawing No. 1 shall hold their offices for the term of two years; those drawing No. 2 shall hold their offices for a term of four years, and those drawing No. 3, shall hold their offices for a term of six years from the date of their election and until their successors are elected and qualified. Each of said offices shall be filled by election at the next general election at which terms as aforesaid would expire, and the person elected shall thereafter hold his office for six years and until his successor is elected and qualified, and shall receive each an annual salary of three thousand and five hundred dollars, and no more.

Sec. 3. No person shall be eligible to the office of chief justice or associate justice of the court of civil appeals unless he be at the time of his election a citizen of the United States and of this state, and a resident of the district for which he is elected, and unless he shall have attained the age of thirty years, and shall have been a practicing lawyer or a judge of a court in this state, or such lawyer and judge together, at least seven years.

Sec. 4. In case of a vacancy in the office of chief justice or associate justice of any court of civil appeals, the governor shall fill the vacancy until the next general election for state officers, and at such general election the vacancy for the unexpired term shall be filled by election by the qualified voters of the district composed of counties returnable to said court.

Sec. 5. The appellate jurisdiction of the courts of civil appeals shall extend to civil cases within the limits of their respective districts:

(1) Of which the district court has original or appellate jurisdiction.

(2) Of which the county court has original jurisdiction.

(3) Of which the county court has appellate jurisdiction when the judgment or amount in controversy shall exceed one hundred dollars exclusive of interest and costs. The judgment of the courts of civil appeals shall be conclusive in all cases upon the facts of the case and a judgment of such courts shall be conclusive on facts and law in the following cases; nor shall a writ of error be allowed thereto from the supreme court, to-wit:

(1) Any civil case appealed from a county court or from a district court when under the constitution a county court would have had original or appellate jurisdiction to try it, except in probate matters and in cases involving the revenue laws of the state or the validity of a statute.

(2) All cases of boundary.

(3) All cases of slander and divorce.

(4) All cases of contested elections of every character other than for state officers, except where the validity of a statute is attacked by the decision.

The judgments of said courts of civil appeals shall be final in all appeals from interlocutory orders appointing receivers or trustees or such other interlocutory appeals as may be allowed by law, and the judgment of said court shall be final in all other cases as to law and facts except where appellate jurisdiction is given to the supreme court and not made final in said courts of civil appeals.

Sec. 6. The said courts and the judges thereof shall have the power to issue writs of mandamus and all other writs necessary to enforce the jurisdiction of said court.

Sec. 7. The said courts shall have power, upon affidavit or otherwise, as by the courts may be thought proper, to ascertain such matters of fact as may be necessary to the proper exercise of their jurisdiction.

Sec. 8. The said courts shall have power to punish any person for a contempt of said court, according to the principles and usages of law in like cases, not to exceed one thousand dollars fine or imprisonment not exceeding twenty days.

Sec. 9. The said courts, or any judge thereof, in vacation may issue the writ of mandamus to compel a judge of the district court to proceed to trial and judgment in a cause agreeably to the principles and usages of law, returnable on or before the first day of the next term, or during the session of the same, or before any judge of the said court, as the nature of the case may require.

Sec. 10. There shall be appointed for each of the courts of civil appeals one clerk who shall reside at the place of holding court, which appointment shall be made by the court or the judges thereof, and shall be entered of record in the proceedings of the court, and each person so appointed shall, before he enters upon the duties of his office, take and subscribe the oath prescribed by the constitution, before some officer authorized to administer oaths generally, and shall enter into a bond with two good and sufficient sureties, to be approved by the court or any judge thereof, payable to the governor and his successor in office, in the sum of five thousand dollars, conditioned for the faithful performance of the duties of his office and that he will correctly record the judgments, decrees, decisions and orders of said courts, and deliver over to his successor in office all records, minutes, books and papers and whatever belongs to his said office of clerk, which bond and oath shall without delay, be deposited in the office of the secretary of state, and shall not be void on the first recovery but may be put in suit and prosecuted by any party injured until the amount thereof is recovered.

Sec. 11. If, in vacation, the office of clerk may become vacant, the appointment shall be made by the chief justice and the associates of said court, or by any one of said associates and chief justice; and the person so appointed shall give bond and take the oath as prescribed in the preceding section, the bond to be approved by any judge of the court, which bond and oath shall be deposited in the same manner as though the appointment had been made in term time, and may be prosecuted and put in suit in like manner; copies of said bond, certified under the hand of the secretary of state and the seal of the state, shall be received in evidence in any court in the state, in the same manner as the original would be were it presented in court; and the said appointment shall continue until regular term of the said court, and until a regular appointment shall be made.

Sec. 12. The clerk of each of said courts shall hold his office for a term of two years from his appointment, but may be removed therefrom for neglect of duty or misconduct in office, by the court of civil appeals, on motion, of which the clerk against whom complaint is made shall have ten days previous notice, specifying the particular charges of negligence or misconduct in office preferred; and in every such case the court shall determine both the law and the facts; and whenever the necessity occurs, the court may appoint a clerk pro tempore.

Sec. 13. It shall be duty of the clerk of each court of civil appeals to procure a seal for the use of the court, which shall have a star of

five points, with the words "Court of Civil Appeals of the State of Texas" engraved thereon.

Sec. 14. The clerks of said court shall file and carefully preserve the transcripts of all records certified to said court, and all papers relative thereto, and shall docket all causes in the order in which they are filed.

Sec. 15. The said clerk shall faithfully record the proceedings and decisions of said court and certify their judgments to the court from which the causes were brought.

Sec. 16. The clerk of each court may appoint deputies, who, in the name of said clerk, may discharge all the duties required by law of said clerk, and said deputies may be required to give bonds with sureties to said clerk for the faithful discharge of their duties; which deputies shall be paid out of the fees collected by the clerk not to exceed twelve hundred dollars per annum to each deputy.

Sec. 17. The clerk of each of said courts shall be librarian in charge of the libraries of said court, except the library at Austin, which shall be under the control of the clerk of the supreme court.

Sec. 18. It shall be the duty of such librarian to take charge of and keep together in good order, and make catalogues of the books of said library, which shall be open to the public use under such rules as may be prescribed by the court for the safe keeping thereof; provided, the books shall not be removed from the library room, except by the judges of the court.

Sec. 19. The clerks of each of the courts of civil appeals shall, within ten days after the first days in January and July, make a report under oath to said courts, showing the amount of costs collected by him during the preceding six months and also the cases in which the same was collected, and the disposition made of such costs. Such report shall be filed and recorded in the minutes of the court.

Sec. 20. In any appeal or writ of error as provided for in this act, the appellant or plaintiff in error shall file the transcript with the clerk of the court of civil appeals within ninety days from the perfecting of the appeal or service of the writ of error; provided, that for good cause the court may permit the transcript to be thereafter filed upon such terms as it may prescribe.

Sec. 21. In case the appellant or plaintiff in error shall fail to file a transcript of the record, as directed in this act, then it shall be lawful for the appellee or defendant in error to file with the clerk of said court a certificate of the clerk of the district or county court in which any such appeal or writ of error may have been taken, attested by the seal of his court, stating the time when such appeal was perfected, or such citation was served; whereupon it shall be the duty of the court of civil appeals to affirm the judgment of the court below, unless good cause can be shown why such transcript was not filed by the appellant or plaintiff in error. If a copy of the bond accompanies such certificate of the clerk of the district or county court, the judgment shall in like manner be affirmed against the sureties on such bond.

Sec. 22. In all cases where the court of civil appeals shall have affirmed the judgment of the court below, under the provisions of the preceding section, said court may, at any time within fifteen days after such affirmance, permit the transcript to be filed by the appellant or plaintiff in error, and the case to be tried on its merits; provided, the appellant or plaintiff in error shall show to the court good cause

why the transcript was not filed by him in accordance with the provisions of section 20, and shall also show to said court that he has given the appellee or defendant in error notice of his intention to apply for such permission to file said transcript; and in cases where the court shall adjourn within fifteen days after any judgment shall have been affirmed under the provisions of the next preceding section, the court may permit the appellant or plaintiff in error to file said transcript at such time as may be deemed proper, and have said cause tried on its merits; provided, said appellant or plaintiff in error shall show good cause why said transcript was not filed as herein directed, and shall show to the court that he has given the appellee or defendant in error notice of his intention to apply for permission to file said transcript.

Sec. 23. When a cause is carried to the courts of civil appeals by writ of error, it shall be docketed in the order of the date received, and the clerk shall transfer said cause to the trial docket thirty days after the same has been received and docketed; provided, that the court may upon motion of either party, of which notice shall be given to the adverse party, extend the time for placing said cause on the trial docket for good cause shown. Causes on the trial docket of said court shall be heard in the order of the date of filing, except as hereinafter provided, unless continued to some future time for good cause shown, and it shall be the duty of the clerk under the directions of the court to notify the parties or the attorneys of record, of the date when the cause is set for hearing.

Sec. 24. In all cases of appeal or writ of error to the court of civil appeals, the trial shall be on a statement of facts or agreed statement of the pleadings and proof, as agreed upon by the parties or their attorneys, or the conclusions of law and fact as the case may be, certified to by the judge of the court below; or should the parties fail to agree, then the judge of the court below shall certify the facts; or on a bill of exceptions to the opinion of the judge; or on a special verdict; or on an error in law, either assigned or apparent on the face of the record; and in the absence of all these, the case shall be dismissed with costs alone, or with costs and damages, at the discretion of the court. And the court shall admit as part of the record to be examined by them in the trial of a cause every bill of exception not signed by the judge trying the cause below, upon its appearing to the satisfaction of the court that the facts are fairly stated therein; that said bill was prepared in accordance with the law governing the preparation of such bills, and that the judge trying the cause refused to sign the same; and the truth of any such bill of exceptions shall be determined by the court on the copies of the affidavits required by law to be made in such cases, such copies to be contained in and to form a part of the record transmitted to the court of civil appeals.

Sec. 25. The appellant or plaintiff in error shall, in all cases, file with the clerk of the court below all assignments of error distinctly specifying the grounds on which he relies before he takes the transcript of the record from the clerk's office; all errors not distinctly specified are waived.

Sec. 26. When any cause or suit may be taken up from any inferior court to the court of civil appeals, whether by appeal, writ of error or otherwise, it shall be lawful for the attorney both for the plaintiff and defendant, to file in the papers of said suit or cause his

written brief or argument; and the said court shall be required to notice the same as if it were the personal appearance of said attorney, and shall not dismiss any suit or cause where such brief or argument of counsel is filed with the papers, for want of other or further prosecution.

Sec. 27. No judge of the court of civil appeals shall sit in any cause wherein he may be interested in the question to be determined, or where either of the parties may be connected with him by affinity or consanguinity, within the third degree, or where he shall have been of counsel in the cause; and where the court, or any two of its members, shall be thus disqualified to hear and determine any cause or causes in said court, that fact shall be certified to the governor, who shall immediately commission the requisite number of persons, learned in the law, for the trial and determination of said cause or causes.

Sec. 28. The cases filed in the court of civil appeals shall be decided in the order in which they are filed at each term of the court, but the following cases shall have precedence of all others in the order named:

- (1) All cases in which the railway commission is a party.
- (2) Cases in which the state is a party.
- (3) Cases which shall be submitted on oral argument for all parties to the cause.
- (4) Such other cases as the court by order or rule may direct.

On the call of cases the court shall set down the causes for argument for such time as the same can be heard, and notice of which shall be given to counsel as heretofore provided, and said cause shall be determined upon argument, or as soon thereafter as practicable, or it shall be set down for further argument but may be postponed by order of the court to a later day in the term.

Sec. 29. There shall be no reversal or dismissal, on appeal or writ of error, for want of form; provided sufficient matter or substance be contained in the record to enable the court to decide the cause upon its merits; and where the court shall be of opinion that an appeal or writ of error has been taken for delay and that there was no sufficient cause for taking such appeal, then and in that case the appellant or plaintiff in error, if he be the defendant in the court below, shall pay ten per centum on the amount in dispute, as damages, together with the judgment, interest and costs of suit thereon accruing. If in any judgment rendered in the district or county court there shall be an excess of damages rendered, and before the plaintiff has entered a release of the same in such court in the manner provided by law, such judgment shall be removed to the court of civil appeals, it shall be lawful for the party in whose favor such excess of damages has been rendered to make such release in the court of civil appeals in the same manner as such release is required to be made in the district or county court; and upon such release being filed in the said court, after revising said judgment said court of civil appeals shall proceed to give such judgment as the court below ought to have given if the release had been filed therein.

Sec. 30. If any party to the record in any cause hereafter taken to the court of civil appeals, by appeal or writ of error, or transferred from the supreme court or court of appeals, shall have died heretofore, or shall hereafter die after the appeal bond has been filed and approved, or after the writ of error has been served, and before such cause has been

decided, such cause shall not abate by such death, but the court shall proceed to adjudicate such cause and render judgment therein as if all parties thereto were still living, and such judgment shall have the same force and effect as if rendered in the life time of the parties thereto.

Sec. 31. After a cause is decided in the court of civil appeals, a conclusion of the facts and law of the case shall be filed in said cause within thirty days after the decision of the same; provided, it shall not be necessary to file said conclusion in causes in which no writ of error will lie to the supreme court; but where a cause is reversed, then the court shall file the reasons for reversing the same.

Sec. 32. When any one of said civil courts of appeal shall in any cause or proceeding render a decision in which any one of the judges therein sitting shall dissent as to any conclusions of law material to the decision of the case, said judge shall enter the grounds of his dissent of record, and the said court of civil appeals shall upon motion of the party to the cause, or on its own motion, certify the point or points of dissent to the supreme court.

Sec. 33. When a certificate of dissent is sent up by any court of civil appeals, it shall be the duty of the clerk to send up a certified copy of the judgment of the court below, with a certified copy of the conclusion of facts and law as found by the court, and the questions of law upon which there is a division, and the original transcript if so ordered by the supreme court; and thereupon, if the supreme court so direct, the clerk shall set down the same for argument and notify the attorneys of record.

Sec. 34. After the question is decided the supreme court shall immediately notify the court of civil appeals of their decision and the same shall be entered as the judgment of said court of civil appeals.

Sec. 35. Whenever, in any case pending before the court of civil appeals, of which said court of civil appeals has final jurisdiction, there should arise an issue of law that is novel, or presenting a question of first impression to the court, and the court of civil appeals should deem it advisable to present the issue to the supreme court for adjudication, it shall be the duty of the presiding judge of said court to certify the very question to be decided to the supreme court, and during the pendency of the decision by the supreme court the cause in which the issue is raised shall be retained for final adjudication in accordance with the decision of the supreme court upon the issue submitted.

Sec. 36. When the judgment or decree of the court below shall be reversed, the court shall proceed to render such judgment or decree as the court below should have rendered, except when it is necessary that some matter of fact be ascertained or the damage to be assessed or the matter to be decreed is uncertain, in either of which cases the cause shall be remanded for a new trial in the court below.

Sec. 37. Whenever the court of civil appeals, on the trial of cases brought from an inferior court, shall affirm the judgment or decree of such inferior court, or when said court shall proceed to render such judgment or decree as should have been rendered by the court below and such judgment shall be for the same or a greater amount or of the same nature as rendered in the court below, said court shall render judgment against the appellant or plaintiff in error, and his sureties on the appeal bond, a copy of which shall always accompany the transcript of the record; and said court of civil appeals shall in their discretion

include in their said judgment or decree such damages, not exceeding ten per cent on the amount of the original judgment, as the court may deem proper; and the judgment or decree of said court rendered as contemplated in this section shall be final.

Sec. 38. If no writ of error be sued out or motion for rehearing be filed within thirty days after the conclusions or decision of the court has been entered in any court of civil appeals, the clerk of the court shall, upon application of either party and the payment of all costs, issue a mandate upon said judgment; and in any cause reversed by said court the appellant shall be entitled to an execution against the appellee for costs occasioned by such appeal, including costs for the transcript, said costs to be taxed by the clerk of the said court.

Sec. 39. When there is a defect of substance or form in any appeal or writ of error bond, on motion to dismiss the same, for such defect, the court may allow the same to be amended by filing in said court of civil appeals a new bond on such terms as the court may prescribe.

Sec. 40. A majority of the several courts of civil appeals shall constitute a quorum for the transaction of business. The said courts may adjourn from day to day or for such time as may be deemed proper by the judges thereof; but if a sufficient number of the judges shall not be present at the first or any day of the term, any judge of the court, or the sheriff attending the same, may adjourn the court from time to time, until a quorum shall be in attendance, but the court shall not be finally adjourned for the term.

Sec. 41. Any party desiring a rehearing of any matter determined by said courts may, within fifteen days after the date of entry of the judgment or decision of the court, or the filing of the findings of fact and conclusions of law, file with the clerk of said court his motion in writing for rehearing thereof, in which motion the grounds relied upon for rehearing shall be distinctly specified and the name and residence of the counsel of the opposing party, if known, and if not known, then the name and residence of the opposing party as shown in the record; provided, that should the court adjourn within less than fifteen days after the rendition of the judgment, the motion may be made as [at] such time and in such manner as may be prescribed by rules to be made by the supreme court.

Sec. 42. Upon the filing of such motion with the clerk of said court, he shall make a certified copy thereof and transmit the same by mail to the sheriff or any constable of the county in which the attorney or opposing party, as the case may be, is alleged in said motion to reside, together with a precept commanding him to deliver the copy of the motion to the person named in such precept.

Sec. 43. Upon the receipt of such precept and copy of motion by the officer, it shall be his duty to deliver the copy of the motion to the person named in said precept, if found in his county, and to return said precept to the court from which it issued, by mail, stating thereon in what manner he executed the same, or that the party named in the precept is not to be found in his county, as the case may be.

Sec. 44. At any time after five days from the return of such precept served, it shall be lawful for said court to hear and determine such motion for rehearing, and not sooner.

Sec. 45. All writs and process issuing from the court of civil appeals shall bear the test of the chief justice or presiding judge of said

court, under the seal of said court, and signed by the clerk thereof, and shall be directed to the sheriff or any constable of any county in the state, and shall be by such officer executed according to the command thereof and returned to the court from which they emanated; and whenever such writ or process shall not be executed, the clerk of said court is hereby authorized and required to issue another like process or writ upon the application of the party suing out the former writ or process to the same or any other county.

Sec. 46. Upon the rendition by the court of civil appeals of any such judgment or decree as is contemplated by section 37, it shall not be necessary for the lower court from which the cause was removed to make any further order or decree therein, but the clerk of said lower court, on receipt of the mandate of the supreme court or court of civil appeals, shall proceed to issue execution thereon as in other cases.

Sec. 47. On the rendition of any final judgment or decree by the court of civil appeals the clerk of said court shall not issue and deliver the mandate of the court, or certify the proceedings to the lower court, until all of the costs accruing in the cause in the court of civil appeals have been paid. If neither party shall pay the costs and take out the mandate within thirty days after the time when the same can be issued by law, then it shall be the duty of the clerk to issue execution for the costs accruing in his court against the party against whom such costs have been adjudged, and to send such execution by mail to the proper officer for collection, but he shall retain the mandate until the costs shall have been paid or collected.

Sec. 48. All executions for costs of the court of civil appeals, as authorized by law, shall be returned by the sheriff or constable to whom they are directed within four months from the date thereof.

Sec. 49. In case any officer shall fail or refuse to make such return with the amount of such costs, if he has collected the same, within the time prescribed herein, or shall make a false or fraudulent return of any such execution, the clerk of said court may issue citation returnable forthwith to such officer to appear before said court and show cause, if any he can, why he has not collected and returned said costs and execution; and failing to show cause, said court may enter judgment against such officer and the sureties on his official bond for twice the amount of said costs, together with the costs of such proceeding.

Sec. 50. The clerk of each of the courts of civil appeals shall be entitled to a salary of twenty-five hundred dollars per annum to be paid out of the fees collected by him, and he shall collect and pay into the treasury of the state all fees and costs collected by him over and above the salary herein allowed, under such further rules and regulations not in conflict with this act as shall be prescribed by the comptroller and to be approved by the judges of each court of civil appeals.

Sec. 51. Each court of civil appeals shall appoint one stenographer who shall discharge such duties as may be required by the court, shall be duly sworn to keep secret all matters which may come to his knowledge as said stenographer, shall receive a salary of twelve hundred dollars per annum, and shall each give bond with two or more sureties in the sum of five thousand dollars, payable to the State of Texas, conditioned for the faithful performance of the duties of said office.

Sec. 52. The reporter of the supreme court shall also be reporter of the court of civil appeals, and the decision [s] of said courts of civil appeals shall be published and sold by the state in the same manner as

is now provided by law for the publication and sale of the supreme court reports.

Sec. 53. All notices required herein to be given by the court of civil appeals to the parties or their attorneys of record in any case, shall be served by the clerk of said court transmitting said notice to said attorneys by registered letter through the mail, properly directed. Registration receipts shall be filed and kept by the clerk with the record of the cause. And all laws and parts of laws in conflict with this act are hereby repealed.

Sec. 54. The fact that the present session is rapidly drawing to a close and is limited by law, and the importance of this bill, creates an emergency, and an imperative public necessity exists that the constitutional rule requiring bills to be read in each house on three several days be suspended, and it is so enacted; and it is further enacted that this bill take effect and be in force on and after the 1st day of September, A. D. 1892.

Approved April 13, 1892.

COURT OF CRIMINAL APPEALS.

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CHAP. 16.—[H. B. No. 62.] An act to organize the court of criminal appeals of the State of Texas, to define the jurisdiction thereof, to prescribe the procedure therein, to fix the places and times of holding the terms of said court, to

repeal articles 1064, 1065, 1066, 1067, 1069, 1070, 1071, 1072, 1073, 1074, 1075, 1076, 1077, 1078, 1079, 1080, 1081, 1082, 1083, 1084, 1085, of the Revised Civil Statutes of the State of Texas, to repeal articles 64, 65, 66, 67, 838, 840, 841, 843, 844, 846, 852, 853, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 876, 877, 878, 879, 880, 881, 882, 883, 885, 886, 887, 888, 889, 890, 1040, 1050, 1051, 1052, 1087, 1088, 1089, of the Code of Criminal Procedure of the State of Texas, and all laws and parts of laws in conflict with the provisions of this act.

Section 1. Be it enacted by the Legislature of the State of Texas: That the court of criminal appeals shall consist of three judges, any two of whom shall constitute a quorum, and the concurrence of two judges shall be necessary to a decision of said court. Said judges shall have the same qualifications and receive the same salaries as judges of the supreme court.

Sec. 2. The judges of said court shall be elected by the qualified voters of the state at a general election, and shall hold their offices for a term of six years.

Sec. 3. At the first session of said court after the first election of the judges thereof under this act, the terms of office of said judges shall be divided into three classes and the justices thereof shall draw for the different classes. The judge who shall draw class No. 1 shall hold his office two years from the date of his election and until the election and qualification of his successor; the judge drawing class No. 2 shall hold his office for four years from the date of his election and until the election and qualification of his successor, and the judge who may draw class No. 3 shall hold his office for six years from the date of his election and until the election and qualification of his successor; and thereafter each of the judges of said court shall hold his office for six years as provided in the constitution of this state.

Sec. 4. In a case of a vacancy in the office of a judge of said court, the governor shall fill the vacancy by appointment for the unexpired term. The judges of the court of appeals who may be in office at the time when this act takes effect shall continue in office as judges of the said court of criminal appeals until the expiration of their term of office.

Sec. 5. Said court shall have appellate jurisdiction co-extensive with the limits of the state in all criminal cases of whatever grade, with such exceptions and under such regulations as may be prescribed by law.

Sec. 6. Said court and the judges thereof shall have the power to issue the writ of habeas corpus, and under such regulations as may be prescribed by law, issue such writs as may be necessary to enforce its own jurisdiction.

Sec. 7. Said court shall have power, upon affidavit or otherwise, to ascertain such matters of fact as may be necessary to the exercise of its jurisdiction.

Sec. 8. The judges of said court shall choose a presiding judge for said court from their number at such times as they shall think proper, and all writs and process issuing from said court shall bear test in the name of said presiding judge and the seal of the court.

Sec. 9. When said court or any member thereof shall be disqualified, under the constitution and laws of this state, to hear and determine any case or cases in said court, the same shall be certified to the governor of the state, who shall immediately commission the requisite number of persons learned in the law for the trial and determination of such cause or causes.

Sec. 10. Said court shall hold its terms as follows:

A term of court shall be held in the city of Tyler, in Smith county, which shall begin on the first Monday in October in each year, and may continue until the last day of December thereafter, unless the business before it is sooner disposed of.

A term of said court shall be held in the city of Dallas, in Dallas county, which shall begin on the first Monday in January in each year, and may continue until the last day of March thereafter, unless the business before it is sooner disposed of.

A term of said court shall be held in the city of Austin, in Travis county, which shall begin on the first Monday in April in each year, and may continue until the last day of June thereafter, unless the business before it is sooner disposed of.

Sec. 11. Appeals from the several counties shall be returnable to such terms of said court as shall be determined by said court, under the rules thereof; provided, that appeals from the several counties in the supreme judicial district in which Austin is situated shall be returnable to the term of the court of criminal appeals held in said city.

Sec. 12. Said court shall appoint a clerk for each place at which it may sit, who shall hold his office for four years unless sooner removed by the court for good cause, entered of record in the minutes of said court.

Sec. 13. Said clerk shall, before entering upon the duties of their offices, take and subscribe the oath of office prescribed by the constitution, and shall give the same bond, to be approved by the court of criminal appeals, as is now or may be hereafter required by them, of clerks of the supreme court.

Sec. 14. Said clerks shall perform as clerks of the court of criminal appeals the like duties as are now or may hereafter be required by law of the clerks of the supreme court, and shall be subject to the same liabilities as are now or may hereafter be prescribed for the clerks of the supreme court.

Sec. 15. Said clerks may appoint deputies who shall perform all the duties of said clerks and who shall be responsible to said clerks for the faithful discharge of the duties of their offices.

Sec. 16. It shall be the duty of the court of criminal appeals to procure a seal for said court at each place at which it may hold its sessions, said seals to be of the same size and design, and have a star with five points with the words "Court of Criminal Appeals of Texas" engraved on each of them.

Sec. 17. Said court is hereby authorized and required to appoint a reporter of its decisions as may be required by law to be published; said reporter may be removed by the court for inefficiency or neglect of duty; said reporter shall receive an annual salary of three thousand dollars, payable monthly, upon the certificate of the presiding judge of said court. The volumes of the decisions of said courts shall be styled "Texas Criminal Reports," and shall be numbered in continuation of the present number of the Court of Appeals Reports. Said volume shall be printed and disposed of as is now or may hereafter be provided by law for the printing and distribution of the reports of the supreme court.

Sec. 18. As soon as the opinions are recorded, the originals, together with the records and papers in each case to be reported, shall be delivered to the reporter by the clerks of said court, who shall take

the reporter's receipt for the same, but the reporter shall return to said clerks the said opinions, records, and papers when he shall have finished using them.

Sec. 19. All criminal cases pending in the court of appeals when this act takes effect, shall be transferred to the court of criminal appeals to be determined by said court as provided by law. All civil cases pending in the court of appeals when this act takes effect, shall be transferred to the court of civil appeals having jurisdiction of the same, and it shall be the duty of the clerks of the courts of criminal appeals to transmit the original papers and certified copies of orders of the court made in each of said cases, to the court of civil appeals to which the same is transferred.

Sec. 20. When the court from which an appeal has been or may hereafter be taken, has been or shall be deprived of jurisdiction over any case pending such appeal, and when such case shall have been or may hereafter be determined by the court of criminal appeals, the mandate of said court of criminal appeals shall be directed to the court to which jurisdiction has been or may hereafter be given over such case.

Sec. 21. In every state case of a less grade than felony, in which an appeal is taken to the court of criminal appeals, and the judgment of the court below is affirmed against the defendant, all fees due the clerk of said court in such case shall be adjudged against the defendant and his sureties on his recognizance, for which execution shall issue as in other cases of appeal to the court of criminal appeals. Should such case be reversed by the court of criminal appeals and a new trial be had in the court below, and the defendant convicted, then the costs aforesaid in favor of the clerk of the court of criminal appeals shall be taxed by the court below against the defendant, and a certified copy of said bill of costs by the clerk of the court of criminal appeals, filed in the court below, shall be sufficient to require said costs to be taxed and collected as other costs against the defendant in the court below.

Sec. 22. The following courts have jurisdiction in criminal actions:

1. The court of criminal appeals.
2. The district courts
3. The county courts.
4. The justices' courts and the mayors' and other courts of incorporated cities and towns.

Sec. 23. The court of criminal appeals or either of the judges thereof, shall have original jurisdiction to inquire into the cause of the detention of persons imprisoned or detained in custody, and for this purpose may issue the writ of habeas corpus, and upon the return thereof may remand such person to custody, admit to bail or discharge the person imprisoned or detained, as the law and the nature of the case may require.

Sec. 24. The court of criminal appeals shall have appellate jurisdiction co-extensive with the limits of the state in all criminal cases of whatever grade.

Sec. 25. The preceding section shall not be so construed as to embrace cases which have been appealed from justices', mayors' or other inferior courts, to the county court, and in which the judgment rendered or fine imposed by the county court shall not exceed one hundred dol-

lars, exclusive of cost. In such cases, the judgment of the county court shall be final.

Sec. 26. Appeals from judgments rendered by the district or county court, in criminal actions, shall be heard by the court of criminal appeals.

Sec. 27. The defendant to a criminal action need not be personally present upon the hearing of his cause in the court of criminal appeals, but he may appear in person in cases where by law he is not committed to jail upon appeal.

Sec. 28. Where the defendant appeals in any case of felony, he shall be committed to jail until the decision of the court of criminal appeals can be made and received.

Sec. 29. An appeal in a felony case may be prosecuted immediately to the term of the court of criminal appeals pending at the time the appeal is taken, or to the first term of such court after such appeal, without regard to the law governing appeals in other cases; and it shall be the duty of the clerk, upon the application of either the state or the defendant, to make out and forward without delay, to the court of criminal appeals, wherever it may be in session, or if not in session, to the clerk of said court where it will next be in session, a transcript of the case.

Sec. 30. The transcript may be filed in the court of criminal appeals, and the case tried and determined in said court, while the district court in which the conviction was had is yet in session; and upon an affirmation of the judgment of conviction by the court of criminal appeals, sentence may be pronounced by the district court, at the same term at which the conviction was had, or any term thereafter.

Sec. 31. In case the defendant, pending an appeal in a felony case, shall make his escape from custody, the jurisdiction of the court of criminal appeals shall no longer attach in the case; and upon the fact of such escape being made to appear, the court shall, on motion of the attorney general, or attorney representing the state, dismiss the appeal; but the order dismissing the appeal shall be set aside, if it shall be made to appear that the accused had voluntarily returned to the custody of the officer from whom he escaped within ten days.

Sec. 32. In appeals of cases of misdemeanor the following form of recognizance shall be considered sufficient:

State of Texas	}	No.
vs.		
A. B.		

This day came into open court A. B., defendant in the above entitled cause, who, together with C. D. and E. F., his sureties, acknowledge themselves severally indebted to the State of Texas in the penal sum of dollars; conditioned that the said A. B., who stands charged in this court with the offense of, and who has been convicted of said offense in this court, shall appear before this court from day to day and from term to term of the same, and not depart without leave of this court, in order to abide the judgment of the court of criminal appeals of the State of Texas in this case.

The amount of such recognizance shall be fixed by the court in which the judgment was rendered and the sufficiency of the security thereon shall be tested and the same proceedings had, in case of forfeiture as in other cases of recognizance.

Sec. 33. The court of criminal appeals shall not entertain jurisdiction of any case in which a recognizance is required by law, unless such recognizance shall comply substantially with the form presented in the preceding section.

Sec. 34. As soon as a transcript is prepared the clerk shall forward the same by mail or other safe conveyance, charges paid, to the proper clerk of the court of criminal appeals.

Sec. 35. The clerk shall immediately after the adjournment of the court at which appeals in criminal actions may have been taken, make out a certificate under his seal of office, exhibiting a list of all such causes which have been decided, and in which the defendant has appealed. This certificate shall show the style of the cause upon the docket, the offense of which the defendant stands accused, the day on which judgment was rendered, and the day on which the appeal was taken; which certified list he shall transmit, post paid, to the clerk of the court of criminal appeals at the proper place.

Sec. 36. The clerk of the court of criminal appeals shall file the certificate provided for in the preceding section, and notify the attorney general that the same has been received.

Sec. 37. When it appears by the certificate provided for in the preceding section that an appeal has been taken in any case in which the transcript has not been received by the clerk of the court criminal appeals, within the time required by law for filing transcripts in civil actions, the clerk of the court of criminal appeals shall immediately notify the clerk of the proper court by mail, that such transcript has not been received.

Sec. 38. The clerk receiving notification as provided in preceding section shall without delay prepare and forward another transcript of the case as in the first instance, and shall notify the clerk of the court of criminal appeals, by letter sent by mail, of the fact that such transcript has been forwarded, and the day on which and the manner in which the same was forwarded.

Sec. 39. The clerk of the court of criminal appeals shall receive, file and docket appeals in criminal actions under such rules as may be prescribed by the court; except in cases of felony, a transcript may be filed, and the case heard and determined at any time during the term to which the appeal is taken.

Sec. 40. The court of criminal appeals shall hear and determine appeals in criminal actions at the earliest time it may be done with due regards to the rights of parties and a proper administration of justice.

Sec. 41. The court of criminal appeals may affirm the judgment of the court below, or may reverse and remand for a new trial, or may reverse and dismiss the case, or may reform and correct the judgment, as the law and the nature of the case may require. In all criminal cases by it decided, the court of criminal appeals shall deliver a written opinion setting forth the reason for the decision.

Sec. 42. The court of criminal appeals may reverse the judgment in a criminal action as well upon the law as upon the facts; but when a cause is reversed for the reason that the verdict is contrary to the weight of evidence, the same shall in all cases be remanded for a new trial.

Sec. 43. As soon as the judgment of the court of criminal appeals is rendered, the clerk shall make out the proper certificate of the pro-

ceedings had and judgment rendered, and transmit the same by mail to the clerk of the proper court, or deliver the mandate to the defendant or his counsel when the decision is favorable to the defendant, if requested to do so, unless he is instructed by the court to withhold the mandate to any particular time.

Sec. 44. When the certificate of the judgment and proceedings in the court of criminal appeals shall be received by the proper clerk, he shall file the same with the original papers of the cause and note the same upon the docket of the cause [court].

Sec. 45. Where the court of criminal appeals awards a new trial to the defendant, the cause shall stand as it would have stood in case the new trial had been granted by the court below.

Sec. 46. Where the defendant's motion in arrest of judgment was overruled, and it is decided on appeal that the same ought to have been sustained, the cause shall stand as if the motion had been sustained, unless the court of criminal appeals in its judgment direct the cause to be dismissed and the defendant wholly discharged.

Sec. 47. Where the court of criminal appeals reverse a judgment and direct the cause to be dismissed, the defendant, if in custody, must be discharged; and the clerk of the court of criminal appeals shall transmit to the officer having custody of defendant an order to that effect; said order shall be transmitted by telegraph or mail immediately upon the dismissal of the cause.

Sec. 48. When a felony case upon appeal is reversed and remanded for a new trial, the defendant shall be released from custody upon his giving bail as in other cases when he is entitled to bail, and the clerk of the court of criminal appeals shall transmit to the officer having custody of the defendant an order to that effect.

Sec. 49. The court of criminal appeals may make rules of procedure as to the hearing of criminal actions upon appeals; but in every case at least two counsel for the defendant shall be heard if they desire it, either by brief or by oral or written argument or by both, as such counsel shall deem proper.

Sec. 50. When the defendant appeals from the judgment rendered on the hearing of an application under habeas corpus, a transcript of the proceedings in the cause shall be made out and certified to, together with all the testimony offered, and shall be sent up to the court of criminal appeals for revision. This transcript, when the proceedings take place before the court in session, shall [be] prepared and certified by the clerk thereof; but when had before a judge in vacation, the transcript may be prepared by any person under direction of the judge and certified by such judge.

Sec. 51. The defendant may not be personally present, upon the hearing of an appeal in case of habeas corpus.

Sec. 52. Cases of habeas corpus taken to the court of criminal appeals, by appeal, shall be heard at the earliest practicable time.

Sec. 53. The court of criminal appeals shall enter such judgment and make such orders as the law and the nature of the case may require, and may make such orders relative to the costs in the case as may seem right, allowing costs and fixing the amount, or allowing no costs at all.

Sec. 54. The judgment of the court of criminal appeals in appeals under habeas corpus shall be final and conclusive and no further appli-

cation in the same case can be made for the writ, except in cases specially provided for by law.

Sec. 55. If an officer holding a person in custody fails to obey the mandate of the court of criminal appeals, he is guilty of an offense and punishable according to the provisions of the penal statutes of this state.

Sec. 56. If the appellant in a case of habeas corpus be detained by any person other than an officer, the sheriff shall, upon receiving the mandate of the court of criminal appeals, immediately cause the person so held to be discharged and the mandate shall be sufficient authority therefor.

Sec. 57. The judgment of the court of criminal appeals shall be certified by the clerk thereof to the officer holding the defendant in custody, or when he is held by any person other than an officer, to the sheriff of the proper county.

Sec. 58. When by the judgment of the court of criminal appeals upon cases of habeas corpus the applicant is ordered to give bail, such judgment shall be certified to the officer holding him in custody, and if such officer be the sheriff, the bail bond may be executed before him, if any other officer he shall take the person detained before some magistrate who may receive a bail bond and shall file the same in the proper court of the proper county, and such bond shall have the same force and effect as a recognizance and may be forfeited and enforced in the same manner.

Sec. 59. The attorney general shall receive from the state the following fees: 1. In each case of felony appealed to the court of criminal appeals, where the appeal is dismissed or where the judgment of the court below is affirmed, the sum of twenty dollars. 2. In the case of habeas corpus heard before the court of criminal appeals when the applicant is charged with a felony, the sum of twenty dollars.

Sec. 60. The clerk of the court of criminal appeals, in every case of felony brought before such court by appeal, shall receive from the state the sum of ten dollars.

Sec. 61. The fees allowed the attorney general and the clerk of the court of criminal appeals by the two preceding sections, shall be audited and paid out of the state treasury upon the certificate of the court of criminal appeals, or of any one of the judges thereof, that the same is correct.

Sec. 62. The district or county attorney shall be allowed the following fees: 1. For all convictions in case of felonious homicide when the defendant does not appeal or dies, or escapes after appeal and before final judgment of the court of criminal appeals, or when upon appeal the judgment is affirmed, the sum of fifty dollars. 2. For all other convictions of felony, when the defendant does not appeal or dies, or escapes after appealing and before final judgment of the court of criminal appeals, or when upon appeal the judgment is affirmed, the sum of thirty dollars. 3. For representing the state in each case of habeas corpus where the defendant is charged with a felony, the sum of twenty dollars.

Sec. 63. The attorney general shall, in every conviction of offenses against the penal laws in cases of misdemeanors, when the judgment of the court below is affirmed by the court of criminal appeals, or the appeal is dismissed by said court, receive the sum of ten dollars.

Sec. 64. The clerk of the court of criminal appeals shall in every

case where the judgment is affirmed, receive the sum of ten dollars; provided, the entire sum such clerk shall receive as compensation for his services shall not exceed two thousand and five hundred dollars per annum; and any sum over and above that shall be paid by him to the treasury of the state, under such rules as may be prescribed by the comptroller to be approved by the judges of the criminal court of appeals.

Sec. 65. The fees named in the preceding sections shall be taxed against the defendant and collected as in other cases.

Sec. 66. That articles 1064, 1065, 1066, 1067, 1069, 1070, 1071, 1072, 1073, 1074, 1075, 1076, 1077, 1078, 1079, 1080, 1081, 1082, 1083, 1084, 1085, of the Revised Civil Statutes of the State of Texas be and the same are hereby repealed.

Sec. 67. That articles 64, 65, 66, 67, 838, 840, 841, 843, 844, 845, 852, 853, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 876, 877, 878, 879, 880, 881, 882, 883, 885, 886, 887, 888, 889, 890, 1049, 1050, 1051, 1052, 1087, 1088, 1089, of the Code of Criminal Procedure of the State of Texas be and the same are hereby repealed.

Sec. 68. That all laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

Sec. 69. The near approach of the close of the present session, which is limited by law, and the great number of bills requiring consideration by the legislature, creates an imperative public necessity, and an emergency exists that the constitutional rule requiring bills to be read in each house on three several days be suspended, and it is so enacted, and it is further enacted that this act take effect and be in force on and after the first day of September, A. D. 1892.

Approved April 13, 1892.

COURTS—DISTRICT AND COUNTY. PRACTICE IN.

Sec.

1. Amends articles 1377, 1380, 1386, 1389, 1391, 1394, 1396, 1400 and 1404 Revised Statutes.
Article 1377. Statement of facts agreed on by the parties.
Article 1380. Appeals and writs of error to the court of civil appeals.
Article 1386. Terms "appellate court" and "court below" defined.
Article 1387. Appeal, when and how taken.
Article 1389. Writ of error may be sued out, when.
Article 1391. Requisites of petition.
Article 1394. Citation in error.

Sec.

- Article 1396. Returns when citation is not served.
Article 1400. Cost bond on appeal or writ of error.
Article 1404. Supersedeas bond.
Article 1467a. Assignments of error to be filed, when.
Article 1416a. Filing of briefs.
2. Repeals articles 1381, 1382, 1383, Revised Statutes.
3. Appeals taken and writs of error granted before this act takes effect, when returnable.
4. Emergency clause; law takes effect September 1, 1892.

CHAP. 17.—[J. C. S. for S. B. No. 32 and H. B. No. 13.] An act to amend article 1377 of title 29, chapter 18, and articles 1380, 1386, 1387, 1389, 1391, 1396, 1400, and 1404 of title 29, chapter 19, and to add after article 1407 another article to be known as article 1407a, and to add after article 1416 another article to be known as article 1416a, of said title 29, chapter 19, of the Revised Statutes of the State of Texas, and to repeal articles 1381, 1382 and 1383, of said Revised Statutes, and providing for the disposition of certain causes.

Section 1. Be it enacted by the Legislature of the State of Texas: That article 1377 of title 29, chapter 18, and articles 1380, 1386, 1387, 1389, 1391, 1394, 1396, 1400 and 1404 of title 29, chapter 19, of the Revised Civil Statutes of Texas, be so amended as hereafter to read as follows:

Article 1377. After the trial of any cause, either party may make out a written statement of the facts given in evidence on the trial, and submit the same to the opposite party, or his attorney, for inspection; if the parties or their attorneys agree upon such statement of facts, they shall sign the same, and it shall then be submitted to the judge, who shall, if he find it correct, approve and sign it, and the same shall be filed with the clerk. Where it is agreed by the parties to the suit or their attorneys of record that the evidence adduced upon the trial of the cause is sufficient to establish a fact or facts alleged by either party, the testimony of the witnesses and the deeds, wills, records or other written instruments, admitted as evidence relating thereto, shall not be stated or copied in detail into a statement of facts, but the facts thus established shall be stated as facts proved in the case; provided, an instrument such as a note or other contract, mortgage or deed of trust, that constitutes the cause of action on which the petition, or answer, or cross bill, or intervention is founded, may be copied once in the statement of facts. When there is any reasonable doubt of the sufficiency of the evidence to constitute proof of any one fact under the preceding rule, there may then be inserted such of the testimony of the witnesses and written instruments, or parts thereof, as relate to such facts.

Article 130. An appeal or writ of error may be taken to the court of civil appeals from every final judgment of the district court in civil cases and from every final judgment in the county court in civil cases of which the county court has original jurisdiction, and from every final judgment of the county court in civil cases of which the court has appellate jurisdiction, where the judgment or amount in controversy exceeds one hundred dollars, exclusive of the interest and costs, and an appeal shall lie from an interlocutory order of the district court appointing a receiver or trustee in any cause, provided said appeal be taken within twenty days from the entry of said order; an appeal under such cases shall take precedence in the appellate court, but the proceedings in other respects in the court below shall not be stayed during the pendency of the appeal unless otherwise ordered by the appellate court.

Article 1386. The term "appellate court" includes the supreme court, or court of civil appeals, having jurisdiction of a cause on appeal or writ of error. The term "court below" includes the district or county court from which such appeal or writ of error is taken.

Article 1387. An appeal may, in cases where an appeal is allowed, be taken during the term of the court at which the final judgment in the cause is rendered, by the appellant's giving notice of appeal in open court within two days after final judgment or two days after judgment overruling a motion for new trial, which shall be noted on the docket and entered of record, and by his filing with the clerk an appeal bond, where bond is required by law, or affidavit in lieu thereof, as hereinafter provided, within twenty days after the expiration of the term. If the term of the court may by law continue longer than eight weeks, the bond, or affidavit in lieu thereof, shall be filed within twenty days after notice of appeal is given, if the party taking the appeal resides in the county, and within thirty days if he resides out of the county.

Article 1389. The writ of error may, in cases where the same is

allowed, be sued out at any time within twelve months after the final judgment is rendered, and not thereafter.

Article 1391. The petition shall state the names and residences of the parties adversely interested, shall describe the judgment with sufficient certainty to identify it, and shall state that he desires to remove the same to the court of civil appeals for revision and correction; where the plaintiff in error desires the issuance of a supersedeas, he shall state the facts which entitle him thereto, and pray for the issuance thereof.

Article 1394. The style of such citation shall be "The State of Texas," and it shall be dated and tested by the clerk as other writs, and the date of its issuance shall be noted thereon. It shall be directed to the sheriff or any constable of the county where the defendant is alleged to reside or be, and shall command him forthwith to summon the defendant to appear and defend such writ before the court of civil appeals within sixty days from the date of service of said citation, stating the place of holding the same, according to the provisions of the law regulating the returns of appeals and writs of error from the county in which the judgment was rendered. It shall state the date of the filing of the petition in error, the names of the parties according to such petition, and the description of the judgment as therein given. Such citation shall be made returnable within ten days from the issuance of the same if defendant resides in the county, and within twenty days if he resides out of the county.

Article 1396. The citation shall be returned as prescribed in article 1394, and where the same has not been served the return shall show the diligence used by the officer to execute the same, and a failure to execute it, and where the defendant is to be found, so far as he has been able to ascertain.

Article 1400. The appellant or plaintiff in error, as the case may be, shall execute a bond with two or more good and sufficient sureties, to be approved by the clerk, payable to the appellee or defendant in error, in a sum at least double the probable amount of the costs of the suit of the court of civil appeals, supreme court and the court below, to be fixed by the clerk, conditioned that such appellant or plaintiff in error shall prosecute his appeal or writ of error with effect, and shall pay all the costs which have accrued in the court below and which may accrue in the court of civil appeals and the supreme court.

Article 1404. Should the appellant or plaintiff in error, as the case may be, desire to suspend the execution of the judgment, he may do so by giving, instead of the bond or affidavit in lieu thereof, mentioned in the four preceding articles, or in addition to such bond, a bond with two or more good and sufficient sureties, to be approved by the clerk, payable to the appellee or defendant in error, in a sum at least double the amount of the judgment, interests and costs, conditioned that such appellant or plaintiff in error shall prosecute his appeal or writ of error with effect, and in case the judgment of the supreme court or the court of civil appeals shall be against him, he shall perform its judgment, sentence or decree, and pay all such damages as said court may award against him.

Article 1407a. The appellant or plaintiff in error shall in all cases file with the clerk of the court below his assignments of error, distinctly specifying the ground on which he relies, before he takes the

transcript of the record from the clerk's office, and all errors not distinctly specified are waived.

Article 1416a. Not less than five days before the time of filing the transcript in the court of civil appeals, the appellant or plaintiff in error shall file with the clerk of the district court a copy of his brief, which shall be by the clerk deposited with the papers of the cause, with the date of the filing endorsed thereon, and the clerk shall forthwith give notice to the appellee or defendant in error, or his attorney of record, of the filing of such brief, and that in twenty days after such notice the appellee or defendant in error shall file a copy of his brief with the clerk of said court below, and with the clerk of the court of civil appeals four copies.

Sec. 2. That articles 1381, 1382 and 1383, of the Revised Civil Statutes be and the same are hereby repealed.

Sec. 3. That all appeals and writs of error taken and perfected from any district or county court to the supreme court or court of appeals before the taking effect of this act, shall be returnable to the courts of civil appeals under the provisions of this act, and shall be decided under the same rules as if they had been so perfected after this law shall take effect.

Sec. 4. The fact that the present session is rapidly drawing to a close, and is limited by law, and the importance of this bill creates an emergency, and an imperative public necessity exists that the constitutional rule requiring bills to be read in each house on three several days be suspended, and it is so enacted, and it is further enacted that this bill take effect and be in force on and after the 1st day of September, A. D. 1892.

Approved April 13, 1892.

SUPREME JUDICIAL DISTRICTS.

Sec.

1. State divided into three districts.
2. Court of first district at Galveston.
3. Court of second district at Fort Worth.
4. Court of third district at Austin.
5. Counties composing first district.

Sec.

6. Counties composing second district.
7. Counties composing third district.
8. Terms of court.
9. Emergency clause; law in effect August 15, 1892.

CHAP. 18.—[S. S. B. No. 18.] An act to divide the State of Texas into three supreme judicial districts, and to provide for and establish a court of civil appeals in each of said districts, and to prescribe the times for holding court in each of said districts.

Section 1. Be it enacted by the Legislature of the State of Texas: That the State of Texas be and the same is hereby divided into three supreme judicial districts for the purpose of constituting and organizing the courts of civil appeals therein respectively.

Sec. 2. That one of the civil courts of appeals shall be held in the first supreme judicial district, in the city of Galveston, in the county of Galveston.

Sec. 3. That one of the civil courts of appeals shall be held in the second supreme judicial district, in the city of Fort Worth, in the county of Tarrant.

Sec. 4. That one of the civil courts of appeals shall be held in the third supreme judicial district, in the city of Austin, in the county of Travis.

Sec. 5. That the following counties shall compose the first supreme judicial district: Panola, Shelby, Sabine, Newton, Orange, Jasper,

San Augustine, Nacogdoches, Rusk, Angelina, Tyler, Hardin, Jefferson, Chambers, Liberty, San Jacinto, Walker, Trinity, Polk, Houston, Anderson, Leon, Madison, Grimes, Montgomery, Harris, Galveston, Victoria, Calhoun, Refugio, Goliad, Wharton, Brazos, Burleson, Washington, Austin, Fort Bend, Brazoria, Fayette, Waller, Jackson, Cherokee, Colorado, Matagorda, DeWitt, Aransas, Lavaca, Harrison, Smith, Gregg, Bee, San Patricio, Nueces, Starr, Hidalgo, Cameron and Upshur.

Sec. 6. That the following counties shall compose the second district: Marion, Cass, Bowie, Morris, Camp, Titus, Franklin, Red River, Hopkins, Rains, Wood, Van Zandt, Henderson, Delta, Lamar, Fannin, Grayson, Collin, Dallas, Rockwall, Hill, Johnson, Tarrant, Denton, Cooke, Wise, Montague, Parker, Hood, Somervell, Erath, Kaufman, Eastland, Borden, Crosby, Randall, Glascock, Howard, Palo Pinto, Jack, Clay, Wichita, Archer, Young, Stephens, Callahan, Shackelford, Throckmorton, Baylor, Wilbarger, Greer, Hardeman, Foard, Knox, Haskell, Jones, Taylor, Ward, Nolan, Fisher, Stonewall, King, Cottle, Childress, Collingsworth, Wheeler, Hemphill, Lipscomb, Ochiltree, Roberts, Gray, Donley, Hale, Motley, Dickens, Kent, Garza, Scurry, Mitchell, Upton, Midland, Martin, Dawson, Lynn, Lubbock, Hall, Lamb, Swisher, Armstrong, Potter, Carson, Hutchinson, Hansford, Sherman, Moore, Briscoe, Floyd, Hockley, Terry, Gaines, Andrews, Ector, Crane, Ward, Winkler, Loving, Reeves, Dallam, Hartley, Oldham, Deaf Smith, Parmer, Bailey, Cochran, Yoakum, Castro, Ellis and Hunt.

Sec. 7. That the following counties shall compose the third supreme judicial district: Robertson, Navarro, Freestone, Bosque, Hamilton, Comanche, Duval, Encinal, Webb, La Salle, Dimmit, McMullen, Live Oak, Maverick, Zavala, Frio, Atascosa, Uvalde, Medina, Bexar, Bandera, Val Verde, Edwards, Kerr, Foley, Mason, Kimble, Gillespie, Kendall, Sutton, Schleicher, Menard, Crockett, Pecos, Presidio, Jeff Davis, Buchel, San Saba, Llano, Burnet, Williamson, Travis, Gonzales, Hays, Comal, Guadalupe, Caldwell, Wilson, Karnes, Kinney, Zapata, Tom Green, Irion, Coke, Sterling, Brewster, El Paso, Falls, Limestone, McLennan, Milam, Bell, Coryell, Lampasas, Lee, Bastrop, Blanco, Mills, Brown, McCulloch, Coleman Concho and Runnels.

Sec. 8. The terms of said courts shall commence on the first Monday in October of each year, and may continue in session until the first Monday in July of each succeeding year.

Sec. 9. The near approach of the close of the called session, and the imperative command of section 6, article 5, of the constitution of the State of Texas, to this legislature, as soon as practicable after the adoption of the said section (at the recent elections held in this state), to divide the state into not less than two nor more than three supreme judicial districts and to establish a court of civil appeals in each of said districts, and the fact that the supreme court and the court of appeals are not able to dispose of the business now on their dockets, and a great public necessity exists that said courts of civil appeals should be organized and proceed to business as soon as possible, which creates a public necessity which requires the suspension of the constitutional rule requiring bills to be read on three several days and the same is suspended and this act take effect and be in force from and after the 15th of August, 1892.

Approved April 13, 1892.

CONGRESSIONAL DISTRICTS.

Sec.

1. Divides state into the districts following:
2. First district.
3. Second district.
4. Third district.
5. Fourth district.
6. Fifth district.
7. Sixth district.
8. Seventh district.

Sec.

9. Eighth district.
10. Ninth district.
11. Tenth district.
12. Eleventh district.
13. Twelfth district.
14. Thirteenth district.
15. Repealing clause.
16. Emergency clause.

CHAP. 19.—[H. S. B. No. 1, 26 and 29.] An act to apportion the State of Texas into congressional districts, and to repeal all laws and parts of laws in conflict herewith.

Section 1. Be it enacted by the Legislature of the State of Texas: That until otherwise provided by law, the State of Texas shall be apportioned into the following congressional districts, each of which shall be entitled to elect one member to the congress of the United States.

Sec. 2. The following counties shall compose the first district, to-wit: Freestone, Leon, Madison, Trinity, Waller, Harris, Grimes, Walker, Chambers and Montgomery.

Sec. 3. The following counties shall compose the second district, to-wit: Jefferson, Orange, Liberty, Hardin, Newton, Jasper, Polk, Tyler, San Jacinto, Angelina, Nacogdoches, San Augustine, Sabine, Shelby, Panola, Harrison, Anderson, Cherokee, Houston.

Sec. 4. The following counties shall compose the third district, to-wit: Hunt, Rockwall, Rains, Van Zandt, Wood, Smith, Upshur, Gregg, Rusk and Henderson.

Sec. 5. The following counties shall compose the fourth district, to-wit: Hopkins, Franklin, Titus, Morris, Camp, Marion, Cass, Bowie, Red River, Lamar, Delta.

Sec. 6. The following counties shall compose the fifth district, to-wit: Fannin, Collin, Grayson, Cooke, Denton and Montague.

Sec. 7. The following counties shall compose the sixth district, to-wit: Dallas, Ellis, Navarro, Hill, Bosque, Johnson and Kaufman.

Sec. 8. The following counties shall compose the seventh district, to-wit: Brazos, Robertson, Limestone, McLennan, Falls, Milam, Bell.

Sec. 9. The following counties shall compose the eighth district, to-wit: Tarrant, Parker, Erath, Somervell, Mills, Hamilton, Coleman, Brown, Runnels, Hood, Comanche, Coryell and Lampasas.

Sec. 10. The following counties shall compose the ninth district, to-wit: Burnet, Williamson, Lee, Travis, Burleson, Bastrop, Caldwell, Hays and Washington.

Sec. 11. The following counties shall compose the tenth district, to-wit: Gonzales, Fayette, Austin, Colorado, Fort Bend, Galveston, Brazoria, Matagorda and Lavaca.

Sec. 12. The following counties shall compose the eleventh district, to-wit: Wharton, Jackson, Calhoun, Victoria, DeWitt, Goliad, Refugio, Bee, Aransas, Karnes, Wilson, Guadalupe, Atascosa, Live Oak, San Patricio, Nueces, Cameron, Hidalgo, Starr, Zapata, Duval, Encinal, Webb, McMullen, La Salle, Dimmit, Zavalla, Frio and Uvalde.

Sec. 13. The following counties shall compose the twelfth district, to-wit: Crockett, San Saba, Llano, Blanco, Kendall, Bexar, Medina, Kerr, Bandera, Gillespie, Mason, McCulloch, Menard, Kimble, Edwards, Val Verde, Sutton, Schleicher, Tom Green, Irion, Sterling, Coke, Glasscock, Midland, Ector, Crane, Buchel, Pecos, Upton, Brewster, Foley, Presidio, Jeff Davis, Kinney, Maverick, Concho and Comal.

Sec. 14. The following counties shall compose the thirteenth district, to-wit: Palo Pinto, Stephens, Shackelford, Eastland, Callahan, Taylor, Nolan, El Paso, Reeves, Ward, Loving, Winkler, Andrews, Martin, Gaines, Dawson, Borden, Scurry, Fisher, Jones, Wise, Jack, Young, Throckmorton, Haskell, Stonewall, Kent, Garza, Lynn, Terry, Yoakum, Cochran, Hockley, Lubbock, Crosby, Dickens, King, Knox, Baylor, Archer, Clay, Wichita, Wilbarger, Foard, Hardeman, Cottle, Motley, Floyd, Hale, Lamb, Bailey, Parmer, Castro, Swisher, Briscoe, Hall, Childress, Greer, Collingsworth, Donley, Armstrong, Randall, Deaf Smith, Oldham, Potter, Carson, Gray, Wheeler, Hemphill, Roberts, Hutchinson, Moore, Hartley, Dallam, Sherman, Hansford, Ochiltree, Lipscomb, Howard and Mitchell.

Sec. 15. All laws and parts of laws in conflict with the provisions of this act are hereby repealed.

Sec. 16. The nearness of the close of the present session of the legislature rendering it impracticable for this bill to be read on three several days creates an emergency, and an imperative public necessity exists requiring the suspension of the constitutional rule requiring bills to be read on three several days, and it is so suspended.

Approved April 19, 1892.

SENATORIAL DISTRICTS.

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| <p>Sec.
1. Divides the state into thirty-one senatorial districts.
2. Election returns, where received; certificates.</p> | <p>Sec.
3. Repealing clause.
4. Emergency clause.</p> |
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CHAP. 20.—[S. H. B. No. 6, 7, 9, 25 and 29.] An act to apportion the State of Texas into senatorial districts, and to repeal all laws in conflict therewith.

Section 1. Be it enacted by the Legislature of the State of Texas: That the senatorial districts of the State of Texas shall hereafter be composed respectively of the following named counties, each of which districts shall be entitled to elect one senator, to-wit:

Senatorial Districts.

- No. 1. Bowie, Cass, Marion and Morris.
- No. 2. Red River, Titus, Camp, Franklin, Hopkins and Delta.
- No. 3. Lamar and Fannin.
- No. 4. Grayson and Cooke.
- No. 5. Collin and Hunt.
- No. 6. Dallas and Rockwall.
- No. 7. Rains, Van Zandt, Wood, Smith, Gregg and Upshur.
- No. 8. Harrison, Rusk, Panola and Shelby.
- No. 9. Navarro, Henderson and Kaufman.
- No. 10. Ellis, Johnson and Hill.
- No. 11. McLennan, Falls and Milam.
- No. 12. Limestone, Freestone, Robertson and Brazos.
- No. 13. Anderson, Cherokee, Houston, Angelina and Trinity.
- No. 14. Nacogdoches, San Augustine, Sabine, Newton, Jasper, Tyler, Liberty, Hardin, Orange and Jefferson.
- No. 15. Leon, Madison, Grimes, Montgomery, Walker, San Jacinto and Polk.
- No. 16. Harris, Fort Bend, Waller and Austin.

- No. 17. Chambers, Galveston, Brazoria, Matagorda and Wharton.
No. 18. Colorado, Lavaca and Fayette.
No. 19. Washington, Burleson, Lee and Bastrop.
No. 20. Williamson, Travis and Burnet.
No. 21. Gonzales, Caldwell, Guadalupe, Comal, Hays and Blanco.
No. 22. Jackson, Calhoun, Victoria, DeWitt, Goliad, Refugio, Bee, Live Oak, Karnes, Wilson, Atascosa, McMullen, La Salle, and Frio.
No. 23. Cameron, Hidalgo, Starr, Zapata, Webb, Encinal, Duval, Nueces, San Patricio and Aransas.
No. 24. Bexar, Medina, Bandera, Kendall, Kerr and Gillespie.
No. 25. Llano, Mason, Kimble, Menard, Schleicher, Sutton, Crockett, Tom Green, Coke, Sterling, Irion, Pecos, Buchel, Foley, Brewster, Presidio, Jeff Davis, El Paso, Val Verde, Edwards, Kinney, Uvalde, Zavalla, Dimmit, and Maverick.
No. 26. Erath, Comanche, Mills, San Saba, McCulloch, Concho, Runnels, Coleman and Brown.
No. 27. Bell, Lampasas, Coryell, Hamilton and Bosque.
No. 28. Palo Pinto, Stephens, Eastland, Callahan, Taylor, Nolan, Mitchell, Howard, Martin, Andrews, Glasscock, Midland, Ector, Winkler, Loving, Ward, Crane, Upton, Reeves, Gaines, Yoakum, Terry, Lynn, Dawson, Borden, Garza, Kent, Scurry, Fisher, Stonewall, Haskell, Jones and Shackelford.
No. 29. Jack, Young, Throckmorton, Clay, Archer, Wichita, Wilbarger, Baylor, Knox, Foard, Hardeman, Greer, King, Dickens, Crosby, Lubbock, Hockley, Cochran, Bailey, Lamb, Hale, Floyd, Motley, Cottle, Childress, Hall, Briscoe, Swisher, Castro, Parmer, Deaf Smith, Randall, Armstrong, Donley, Collingsworth, Wheeler, Gray, Carson, Potter, Oldham, Hartley, Moore, Hutchinson, Roberts, Hemphill, Lipscomb, Ochiltree, Hansford, Sherman and Dallam.
No. 30. Tarrant, Parker, Hood and Somervell.
No. 31. Denton, Wise and Montague.
- Sec. 2. The county judges of the following counties shall receive returns and count the votes and issue certificates of election to persons receiving the highest number of votes for senator at any election in their respective districts, to-wit:
- First District, Bowie county.
Second district, Red River county.
Third district, Lamar county.
Fourth district, Grayson county.
Fifth district, Collin county.
Sixth district, Dallas county.
Seventh district, Smith county.
Eighth district, Rusk county.
Ninth district, Navarro county.
Tenth district, Ellis County.
Eleventh district, McLennan county.
Twelfth district, Limestone county.
Thirteenth district, Cherokee county.
Fourteenth district, Tyler county.
Fifteenth district, Leon county.
Sixteenth district, Harris county.
Seventeenth district, Galveston county.
Eighteenth district, Colorado county.
Nineteenth district, Lee county.

Twentieth district, Williamson county.
 Twenty-first district, Hays county.
 Twenty-second district, Bee county.
 Twenty-third district, Nueces county.
 Twenty-fourth district, Bexar county.
 Twenty-fifth district, Tom Green county.
 Twenty-sixth district, Brown county.
 Twenty-seventh district, Bell county.
 Twenty-eighth district, Eastland county.
 Twenty-ninth district, Clay county.
 Thirtieth district, Tarrant county.
 Thirty-first district, Wise county.

Sec. 3. All laws in conflict with this act are hereby repealed.

Sec. 4. The near approach of the close of the session and the large amount of business undisposed of creates an emergency and an imperative public necessity justifying the suspension of the constitutional rule requiring bills to be read on three several days, and it is so suspended.

Approved April 19, 1892.

REPRESENTATIVE DISTRICTS.

Sec.

1. Apportions the state into representative districts; number of representatives.
2. Election returns, by whom received in districts of more than one county.

Sec.

3. Same, in districts of one county.
4. Article 13, chapter 13, act of May 3, 1882, and article 13 Revised Statutes repealed.

CHAP. 21.—[S. H. B. Nos. 6, 7, 9, 25 and 39.] An act to apportion the State of Texas into representative districts and fix the number of representatives thereof, and to repeal article 13, chapter 13, of the general laws of the state, approved May 3, 1882, and article 13, title, 4, of the Revised Civil Statutes of the state, and all other laws and parts of laws in conflict with the provisions of this act.

Section 1. Be it enacted by the Legislature of the State of Texas: That the State of Texas is hereby apportioned into representative districts and the number of representatives in each district shall be as follows:

No. 1. The first district, composed of the county of Bowie, and shall elect one representative.

No. 2. The second district, composed of the county of Cass, and shall elect one representative.

No. 3. The third district, composed of the counties of Bowie, Cass and Marion, and shall elect one representative.

No. 4. The fourth district, composed of the county of Red River, and shall elect one representative.

No. 5. The fifth district, composed of the counties of Morris, Titus and Red River, and shall elect one representative.

No. 6. The sixth district, composed of the county of Lamar, and shall elect two representatives.

No. 7. The seventh district, composed of the county of Fannin, and shall elect two representatives.

No. 8. The eighth district, composed of the county of Grayson, and shall elect three representatives.

No. 9. The ninth district, composed of the county of Cooke, and shall elect one representative.

No. 10. The tenth district, composed of the county of Montague, and shall elect one representative.

No. 11. The eleventh district, composed of the county of Wise, and shall elect one representative.

No. 12. The twelfth district, composed of the county of Denton, and shall elect one representative.

No. 13. The thirteenth district, composed of the counties of Cooke, Denton and Wise, and shall elect one representative.

No. 14. The fourteenth district, composed of the county of Collin, and shall elect two representatives.

No. 15. The fifteenth district, composed of the county of Hunt, and shall elect one representative.

No. 16. The sixteenth district, composed of the county of Kaufman, and shall elect one representative.

No. 17. The seventeenth district, composed of the counties of Hunt and Kaufman, and shall elect one representative.

No. 18. The eighteenth district, composed of the county of Hopkins, and shall elect one representative.

No. 19. The nineteenth district, composed of the counties of Hopkins, Franklin and Delta, and shall elect one representative.

No. 20. The twentieth district, composed of the counties of Wood and Rains, and shall elect one representative.

No. 21. The twenty-first district, composed of the county of Harrison, and shall elect one representative.

No. 22. The twenty-second district, composed of the counties of Harrison and Gregg, and shall elect one representative.

No. 23. The twenty-third district, composed of the county of Smith, and shall elect one representative.

No. 24. The twenty-fourth district, composed of the counties of Smith, Upshur and Camp, and shall elect one representative.

No. 25. The twenty-fifth district, composed of the counties of Upshur and Camp, and shall elect one representative.

No. 26. The twenty-sixth district, composed of the county of Rusk, and shall elect one representative.

No. 27. The twenty-seventh district, composed of the counties of Rusk and Panola, and shall elect one representative.

No. 28. The twenty-eighth district, composed of the county of Cherokee, and shall elect one representative.

No. 29. The twenty-ninth district, composed of the county of Anderson, and shall elect one representative.

No. 30. The thirtieth district, composed of the county of Houston, and shall elect one representative.

No. 31. The thirty-first district, composed of the counties of Houston, Anderson, Cherokee and Angelina, and shall elect one representative.

No. 32. The thirty-second district, composed of the county of Nacogdoches, and shall elect one representative.

No. 33. The thirty-third district, composed of the counties of Shelby and Sabine, and shall elect one representative.

No. 34. The thirty-fourth district, composed of the counties of San Augustine, Newton and Jasper, and shall elect one representative.

No. 35. The thirty-fifth district, composed of the counties of San Jacinto and Polk, and shall elect one representative.

No. 36. The thirty-sixth district, composed of the counties of Tyler,

Hardin, Liberty, Jefferson, Orange and Chambers, and shall elect two representatives.

No. 37. The thirty-seventh district, composed of the county of Harris, and shall elect two representatives.

No. 38. The thirty-eighth district, composed of the counties of Montgomery, Walker and Trinity, and shall elect two representatives.

No. 39. The thirty-ninth district, composed of the county of Galveston, and shall elect two representatives.

No. 40. The fortieth district composed of the counties of Brazoria and Matagorda, and shall elect one representative.

No. 41. The forty-first district, composed of the counties of Fort Bend and Waller, and shall elect one representative.

No. 42. The forty-second district, composed of the county of Austin, and shall elect one representative.

No. 43. The forty-third district, composed of the county of Colorado, and shall elect one representative.

No. 44. The forty-fourth district, composed of the county of Lavaca, and shall elect one representative.

No. 45. The forty-fifth district, composed of the county of Fayette, and shall elect two representatives.

No. 46. The forty-sixth district, composed of the counties of Wharton, Colorado, Lavaca and Gonzales, and shall elect one representative.

No. 47. The forty-seventh district, composed of the county of Washington, and shall elect one representative.

No. 48. The forty-eighth district, composed of the counties of Washington, Burleson and Lee, and shall elect one representative.

No. 49. The forty-ninth district, composed of the counties of Burleson and Lee, and shall elect one representative.

No. 50. The fiftieth district, composed of the county of Travis, and shall elect two representatives.

No. 51. The fifty-first district, composed of the county of Caldwell, and shall elect one representative.

No. 52. The fifty-second district, composed of the county of Bastrop, and shall elect one representative.

No. 53. The fifty-third district, composed of the counties of Burnet and Lampasas, and shall elect one representative.

No. 54. The fifty-fourth district, composed of the county of Grimes, and shall elect one representative.

No. 55. The fifty-fifth district, composed of the counties of Brazos and Madison, and shall elect one representative.

No. 56. The fifty-sixth district, composed of the counties of Leon and Madison, and shall elect one representative.

No. 57. The fifty-seventh district, composed of the county of Freestone, and shall elect one representative.

No. 58. The fifty-eighth district, composed of the county of Navarro, and shall elect one representative.

No. 59. The fifty-ninth district, composed of the counties of Navarro and Henderson, and shall elect one representative.

No. 60. The sixtieth district, composed of the county of Limestone, and shall elect one representative.

No. 61. The sixty-first district, composed of the county of Falls, and shall elect one representative.

No. 62. The sixty-second district, composed of the county of Milam, and shall elect one representative.

No. 63. The sixty-third district, composed of the county of Robertson, and shall elect one representative.

No. 64. The sixty-fourth district, composed of the counties of Limestone, Robertson, Leon and Madison, and shall elect one representative.

No. 65. The sixty-fifth district, composed of the county of Bell, and shall elect two representatives.

No. 66. The sixty-sixth district, composed of the county of McLennan, and shall elect two representatives.

No. 67. The sixty-seventh district, composed of the county of Coryell, and shall elect one representative.

No. 68. The sixty-eighth district, composed of the county of Ellis, and shall elect one representative.

No. 69. The sixty-ninth district, composed of the county of Johnson, and shall elect one representative.

No. 70. The seventieth district, composed of the counties of Ellis and Johnson, and shall elect one representative.

No. 71. The seventy-first district, composed of the county of Williamson, and shall elect one representative.

No. 72. The seventy-second district, composed of the counties of Williamson, Milam and Falls, and shall elect one representative.

No. 73. The seventy-third district, composed of the county of Dallas, and shall elect three representatives.

No. 74. The seventy-fourth district, composed of the counties of Dallas and Rockwall, and shall elect one representative.

No. 75. The seventy-fifth district, composed of the county of Hill, and shall elect one representative.

No. 76. The seventy-sixth district, composed of the counties of Bosque and Hamilton, and shall elect one representative.

No. 77. The seventy-seventh district, composed of the counties of Hill, Bosque, Hamilton and Somervell, and shall elect one representative.

No. 78. The seventy-eighth district, composed of the county of Tarrant, and shall elect two representatives.

No. 79. The seventy-ninth district, composed of the county of Parker, and shall elect one representative.

No. 80. The eightieth district, composed of the counties of Parker, Tarrant and Hood, and shall elect one representative.

No. 81. The eighty-first district, composed of the counties of Palo Pinto and Eastland, and shall elect one representative.

No. 82. The eighty-second district, composed of the counties of De Witt and Goliad, and shall elect one representative.

No. 83. The eighty-third district, composed of the counties of Bee, Calhoun, Jackson, Refugio and Victoria, and shall elect one representative.

No. 84. The eighty-fourth district, composed of the county of Gonzales, and shall elect one representative.

No. 85. The eighty-fifth district, composed of the counties of Cameron, Zapata, Hidalgo and Starr, and shall elect two representatives.

No. 86. The eighty-sixth district, composed of the counties of Webb and Encinal, and shall elect one representative.

No. 87. The eighty-seventh district, composed of the counties of

Duval, Nueces, San Patricio and Aransas, and shall elect one representative.

No. 88. The eighty-eighth district, composed of the counties of Atascosa, Karnes, Wilson and Live Oak, and shall elect one representative.

No. 89. The eighty-ninth district, composed of the county of Bexar, and shall elect two representatives.

No. 90. The ninetieth district, composed of the counties of Bexar, Atascosa, Karnes, Wilson and Live Oak, and shall elect one representative.

No. 91. The ninety-first district, composed of the counties of McMullen, La Salle, Dimmit, Zavalla, Uvalde, Medina and Frio, and shall elect one representative.

No. 92. The ninety-second district, composed of the counties of Bander, Kerr and Kendall, and shall elect one representative.

No. 93. The ninety-third district, composed of the counties of Llano and Mason, and shall elect one representative.

No. 94. The ninety-fourth district, composed of the counties of Concho, McCulloch, San Saba and Mills, and shall elect one representative.

No. 95. The ninety-fifth district, composed of the counties of Crockett, Sutton, Schleicher, Kimble, Menard, Runnels, Coke, Sterling, Tom Green, Irion and Edwards, and shall elect one representative.

No. 96. The ninety-sixth district, composed of the counties of El Paso, Jeff Davis, Presidio, Brewster, Foley, Buchel, Pecos, Val Verde, Kinney and Maverick, and shall elect two representatives.

No. 97. The ninety-seventh district, composed of the county of Guadalupe, and shall elect one representative.

No. 98. The ninety-eighth district, composed of the counties of Blanco, Gillespie, Hays and Comal, and shall elect two representatives.

No. 99. The ninety ninth district, composed of the county of Erath, and shall elect one representative.

No. 100. The one hundredth district, composed of the county of Van Zandt, and shall elect one representative.

No. 101. The one hundred and first district, composed of the county of Comanche, and shall elect one representative.

No. 102. The one hundred and second district, composed of the counties of Dallam, Sherman, Hansford, Ochiltree, Lipscomb, Hemphill, Roberts, Hutchinson, Moore, Hartley, Oldham, Potter, Carson, Gray, Wheeler, Collingsworth, Donley, Armstrong, Randall, Deaf Smith, Parmer, Castro, Swisher, Briscoe, Hall, Childress, Bailey, Lamb, Hale, Floyd, Motley, Cottle, Hardeman, Foard, Dickens and King, and shall elect one representative.

No. 103. The one hundred and third district, composed of the counties of Greer, Willbarger and Wichita, and shall elect one representative.

No. 104. The one hundred and fourth district, composed of the counties of Knox, Baylor, Archer, Throckmorton, Young, and Stephens, and shall elect one representative.

No. 105. The one hundred and fifth district, composed of the counties of Clay and Jack, and shall elect one representative.

No. 106. The one hundred and sixth district, composed of the counties of Reeves, Loving, Winkler, Crane, Crane, Upton, Ector, Midland, Glasscock, Andrews, Martin, Howard, Mitchell, Nolan,

Fisher, Scurry, Borden, Dawson, Gaines, Yoakum, Terry, Lynn, Garza, Kent, Stonewall, Haskell, Crosby, Lubbock, Hockley and Cochran, and shall elect one representative.

No. 107. The one hundred and seventh district, composed of the counties of Jones, Shackelford, Callahan and Taylor, and shall elect one representative.

No. 108. The one hundred and eighth district, composed of the counties of Brown and Coleman, and shall elect one representative.

Sec. 2. Be it further enacted: That in the several districts composed of more than one county, the county judges of the following named counties shall receive the returns and issue the certificates of election to the representatives elected in their respective districts, to-wit:

In the third district, Cass county.

In the fifth district, Morris county.

In the thirteenth district, Denton county.

In the seventeenth district, Hunt county.

In the nineteenth district, Hopkins county.

In the twentieth district, Wood county.

In the twenty-second district, Harrison county.

In the twenty-fourth district, Smith county.

In the twenty-fifth district, Upshur county.

In the twenty-seventh district, Panola county.

In the thirty-first district, Cherokee county.

In the thirty-third district, Shelby county.

In the thirty-fourth district, San Augustine county.

In the thirty-fifth district, Polk county.

In the thirty-sixth district, Jefferson county.

In the thirty-eighth district, Montgomery county.

In the fortieth district, Brazoria county.

In the forty-first district, Waller county.

In the forty-sixth district, Colorado county.

In the forty-eighth district, Washington county.

In the forty-ninth district, Burleson county.

In the fifty-third district, Burnet county.

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In the fifty-sixth district, Leon county.

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In the sixty-fourth district, Robertson county.

In the seventieth district, Ellis county.

In the seventy-second district, Milam county.

In the seventy-fourth district, Dallas county.

In the seventy-sixth district, Hamilton county.

In the seventy-seventh district, Bosque county.

In the eightieth district, Parker county.

In the eighty-first district, Eastland county.

In the eighty-second district, De Witt county.

In the eighty-third district, Victoria county.

In the eighty-fifth district, Cameron county.

In the eighty-sixth district, Webb county.

In the eighty-seventh district, Nueces county.

In the eighty-eighth district, Wilson county.

In the ninetieth district, Bexar county.

In the ninety-first district, Uvalde county.

In the ninety-second district, Kerr county.

In the ninety-third district, Llano county.
In the ninety-fourth district, McCulloch county.
In the ninety-fifth district, Tom Green county.
In the ninety-sixth district, Val Verde county.
In the ninety-eighth district, Hays county.
In the one hundred and second district, Donley county.
In the one hundred and third district, Wilbarger county.
In the one hundred and fourth district, Baylor county.
In the one hundred and fifth district, Jack county.
In the one hundred and sixth district, Mitchell county.
In the one hundred and seventh district, Taylor county.
In the one hundred and eighth district, Brown county.

Sec. 3. In all districts composed of only one county, the county judge of such county shall receive the returns and issue the certificates of election to the representatives elected as shown by the highest number of votes cast for any one person.

Sec. 4. That article 13, chapter 13, of the general laws of Texas, approved May 3d, 1882, and that article 13, title 4, of the Revised Civil Statutes, and all other laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

Sec. 5. The near approach of the close of the session, and the large amount of business undisposed of, creates an imperative public necessity, justifying the suspension of the constitutional rule requiring bills to be read on three several days, and it is so suspended.

Approved April 12, 1892.

JUDICIAL DISTRICT—TWENTY-SECOND.

- Sec. 1. Terms of court in Caldwell county.
- 2. Repealing clause.
- 3. Emergency clause.

CHAP. 22.—[H. B. No. 58.] An act to extend the terms of the district court in Caldwell county in the 22d judicial district of Texas; to repeal all parts of laws in conflict herewith.

Section 1. Be it enacted by the Legislature of the State of Texas: That the term of the district court of Caldwell county, in the 22d judicial district of Texas, shall commence on the fourth Mondays in March and September of each year, and may continue in session five weeks.

Sec. 2. All parts of laws in conflict with the provisions of this act are hereby repealed.

Sec. 3. The near approach of the close of this session creates an emergency and an imperative public necessity exists that the constitutional rule requiring bills to be read on three several days in each house be suspended, and said rule is so suspended.

Approved April 19, 1892.

JUDICIAL DISTRICTS—THIRTY-FIFTH AND FIFTY-FIRST.

Sec. 1. Amends Section 2 of Act of March, 1891.

(2) Counties composing fifty-first district; terms of court.

3. [2]. Emergency clause.

CHAP. 23.—[H. B. No. 54.] An act to amend section 2 of an act to reorganize the 35th judicial district, and to create the 51st judicial district of the state, presented to the governor 3d of March, 1891, but not being signed by him nor returned to the house where it originated, with his objections thereto, within the time prescribed by the constitution, became a law without his signature.

Section 1. Be it enacted by the Legislature of the State of Texas: That section 2 of an act to reorganize the 35th judicial district and to create the 51st judicial district, which was presented to the governor, March 3, 1891, but not being signed by him nor returned to the house where it originated, with his objections thereto, within the time prescribed by the constitution, became a law without his signature, shall hereafter read as follows, to-wit:

Sec. 2. The fifty-first judicial district of this state is hereby created, and shall be composed of the counties of Irion, Sutton, Coke, Crockett, Sterling, Tom Green and Schleicher, and a district court shall be held therein each year as follows, to-wit:

In the county of Irion on the first Mondays of September and February, and may continue in session two weeks.

In the county of Sutton on the third Mondays of September and February, and may continue in session two weeks.

In the county of Coke on the fifth Mondays after the first Mondays in September and February, and may continue in session two weeks.

In the county of Crockett on the eighth Mondays after the first Mondays in September and February, and may continue in session two weeks.

In the county of Sterling on the tenth Mondays after the first Mondays in September and February, and may continue in session two weeks.

In the county of Tom Green on the twelfth Mondays after the first Mondays in September and February, and may continue in session until the business of the court is disposed of.

Sec. 3. [2]. The near approach of the close of the session, and the large amount of business undisposed of, creates an emergency and necessity for the suspension of the constitutional rule requiring bills to be read on three several days to be suspended, it is so suspended.

[Note.—The foregoing act was presented to the governor of Texas for his approval on the eleventh day of April, A. D. 1892, but was not signed by him nor returned to the house in which it originated, with his objections thereto; nor were any objections thereto filed by him in this office after adjournment of the legislature, within the time prescribed by the constitution. This act thereupon became a law without his signature.—J. R. Curl, Chief Clerk and Acting Secretary of State.]

JUDICIAL DISTRICTS—FORTY-THIRD, FORTY-SIXTH AND FORTY-SEVENTH.

Sec.

1. Counties comprising forty-sixth district; terms of court.
2. Counties comprising forty-seventh district; terms of court.
6. Emergency clause; law takes effect, when.

Sec.

3. Counties comprising forty-third district; terms of court.
4. Process, when returnable; juries.
5. Repealing clause.

CHAP. 24.—[S. B. No. 31.] An act to reorganize the forty-third, forty-sixth, and forty-seventh judicial districts, and to fix the time for holding the terms of court therein, and to repeal all laws in conflict herewith.

Section 1. Be it enacted by the Legislature of the State of Texas: That the forty-sixth judicial district shall be composed of the counties of Wilbarger, Greer, Collingsworth, Hardeman, Childress, Hall and Foard, and the terms of the district court shall be held therein each year as follows:

In the county of Wilbarger on the first Mondays in February and August, and may continue in session eight weeks.

In the county of Greer on the eighth Mondays after the first Mondays in February and August, and may continue in session three weeks.

In the county of Collingsworth on the eleventh Mondays after the first Mondays in February and August, and may continue in session two weeks.

In the county of Hardeman on the thirteenth Mondays after the first Mondays in February and August, and may continue in session three weeks.

In the county of Childress on the sixteenth Mondays after the first Mondays in February and August, and may continue in session two weeks.

In the county of Hall on the eighteenth Mondays after the first Mondays in February and August, and may continue in session two weeks.

In the county of Foard on the twentieth Mondays after the first Mondays in February and August, and may continue in session until the business is disposed of.

Sec. 2. That the forty-seventh judicial district shall be composed of the counties of Donley, Armstrong, Randall, Deaf Smith, Potter, Oldham, Hartley, Dallam, Sherman, Briscoe, Swisher and Castro and the unorganized counties of Moore, Parmer, Bailey and Lamb, and the district court shall be held therein each year as follows:

In the county of Donley on the first Mondays in February and August, and may continue in session two weeks.

In the county of Briscoe on the second Mondays after the first Mondays in February and August, and may continue in session two weeks.

In the county of Armstrong on the fourth Mondays after the first Mondays in February and August, and may continue in session two weeks.

In the county of Potter on the sixth Mondays after the first Mondays in February and August, and may continue in session three weeks.

In the county of Randall on the ninth Mondays after the first Mondays in February and August, and may continue in session two weeks.

In the county of Deaf Smith on the eleventh Mondays after the first Mondays in February and August, and may continue in session two weeks.

In the county of Oldham on the thirteenth Mondays after the first Mondays in February and August, and may continue in session one week.

In the county of Hartley on the fourteenth Mondays after the first Mondays in February and August, and may continue in session two weeks.

In the county of Dallam on the sixteenth Mondays after the first Mondays in February and August, and may continue in session two weeks.

In the county of Sherman on the eighteenth Mondays after the first Mondays in February and August, and may continue in session one week.

In the county of Castro on the nineteenth Mondays after the first Mondays in February and August, and may continue in session one week.

In the county of Swisher on the twentieth Mondays after the first Mondays in February and August, and may continue in session two weeks.

The unorganized county of Parmer is hereby attached to Deaf Smith county for judicial purposes.

The unorganized counties of Bailey and Lamb are hereby attached to Castro county for judicial purposes.

Sec. 3. That the forty-third judicial district shall be composed of the counties of Jack, Parker and Wise, and the terms of the district court shall be held therein each year as follows:

In the county of Jack on the first Mondays in March and September, and may continue in session four weeks.

In the county of Parker on the fourth Mondays after the first Mondays in March and September, and may continue in session eight weeks.

In the county of Wise on the twelfth Mondays after the first Mondays in March and September, and may continue in session until the business is disposed of.

Sec. 4. That all process issued or served before this act goes into effect, returnable to the district courts in said judicial districts aforesaid, shall be considered returnable to said courts in accordance with the terms as prescribed by this act, and such process is hereby legalized; and all grand and petit juries drawn and selected under existing laws in any of the counties of said judicial districts, shall be considered lawfully drawn and selected for the next term of the district courts of their respective counties held after this act takes effect; and such process is hereby legalized and validated.

Sec. 5. That all laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

Sec. 6. Whereas, the rapid settlement of the counties mentioned in this act, and the inability of the judges under former laws to transact all of the business in the courts of the said several counties, and the organization of unorganized counties, creates an imperative public necessity, and an emergency exists requiring the suspension of the constitutional rule requiring bills to be read on three several days in each house; therefore said constitutional rule is hereby suspended and so much of this act as affects the forty-sixth and forty-seventh judicial districts shall take effect from and after the first day of July, 1892.

and the remainder thereof shall take effect from and after the first day of September, 1892, and it is so enacted.

[Note.—The foregoing act was presented to the governor of Texas for his approval on the twelfth day of April, A. D. 1892, but was not signed by him nor returned to the house in which it originated, with his objections thereto; nor were there any objections thereto filed by him in this office after the adjournment of the legislature, within the time prescribed by the constitution. This act thereupon became a law without his signature.—J. R. Curl, Chief Clerk and Acting Secretary of State.]

RESOLUTIONS.

JOINT RESOLUTION.

[S. J. R. No. 1.] Authorizing the governor of Texas to collect the money due the State of Texas from the United States government by reason of the direct tax of 1861, and to provide for the disbursement thereof.

Whereas, There is a large sum of money due the State of Texas by the United States government, by reason of the act of the 51st congress, approved March 2, 1891, which said act refunds to the states the money collected under the direct tax bill of 1861; and

Whereas, by the said act of March 2, 1891, the governor of the State of Texas, to whom said money is made payable, cannot collect the same until a resolution of the Legislature authorizing him so to do, and to provide for the disbursement thereof; therefore,

Section 1. Be it resolved by the Legislature of the State of Texas: That the governor of this State is hereby authorized and empowered to receive from the treasurer of the United States all moneys due the State of Texas under the act of the 51st congress, approved March 2, 1891, entitled "An act to credit and pay to the states and territories and the District of Columbia all moneys collected under the direct tax levied by the act of congress approved August 5, 1861," and receipt therefor in such manner as may be required, and place the same in the treasury of the State of Texas; and the State of Texas accepts and receives such moneys in full satisfaction of all claims against the United States on account of the levy and collection of such tax.

Sec. 2. The attorney general, treasurer and comptroller of the State of Texas shall constitute an auditing board to audit and pass upon all claims of individuals claiming any part of such moneys under such rules of procedure as such board may prescribe, and upon the allowance of any such claim the comptroller shall draw his draft upon the treasurer in payment therefor, and such board shall give such notice and hold such meetings as may be necessary to enable the people to whom such money belongs to readily obtain the same.

Sec. 3. Whereas, the present session of the legislature is limited to thirty days, and it is impossible during that time to transact the business pending before the senate; and

Whereas, The money herein sought to be refunded is lying idle in the treasury in Washington;

Therefore an emergency and public necessity exists for the suspension of the constitutional rule requiring bills to be read on three several days, and said rule is hereby suspended, and this resolution shall take effect from and after its passage.

[Note.—The foregoing joint resolution originated in the senate, and passed the same by a vote of 24 yeas and no nays; and passed the house by a vote of 84 yeas and no nays.]

Approved April 11, 1892.

SENATE CONCURRENT RESOLUTION.

[S. C. R. No. 1.] The people of Texas having heard with profound sorrow of the death of General Walter P. Lane, which occurred at his home in Marshall, Texas, on the 19th day of January, 1892, and

believing that we, as the representatives of the people, should give some expression in respect to the memory of this illustrious hero; therefore,

Be it resolved by the Senate and the House of Representatives: That by the death of General Lane the state has lost a citizen whose whole life was devoted to her welfare. In war he was the incomparable soldier, and in peace the modest and dutiful citizen.

Resolved 2d: That the services he rendered Texas will be ever cherished by patriotic people, and his glorious character will always be a splendid example for the coming generations of our state.

Resolved 3d: That these resolutions be spread upon the journals of the two houses and that an engrossed copy of the same be furnished to the family of the deceased.

Approved April 4, 1892.

CONCURRENT RESOLUTION.

Whereas, the committee appointed at the regular session of the 22d legislature to investigate the matters pertaining to the receivership of the I. & G. N. Railroad; and

Whereas, said committee at its first meeting ascertained that no sufficient appropriation was made to pay stenographers to aid said committee; and

Whereas, said committee did receive the services of competent stenographers, viz: Will P. Williams and W. J. Farwell, with the understanding that the legislature would be asked at its first session after the meeting of said committee to make an additional appropriation to pay said stenographers; and

Whereas, said stenographers have never been paid in full; therefore,

Be it resolved by the House of Representatives, the Senate concurring: That the sum of two hundred and forty dollars be and the same is hereby appropriated out of the contingent fund of this legislature, one hundred and twenty dollars to pay said Farwell, and one hundred and twenty dollars to be paid said Williams.

And be it further resolved: That the further sum of thirty-nine dollars be appropriated from said fund to reimburse sergeant-at-arms Henderson, for expenses incurred in summoning witnesses, said account not having been passed upon before the adjournment of the committee.

Approved April 11, 1892.

THE STATE OF TEXAS,

Department of State.

I, George W. Smith, Secretary of State of the State of Texas, certify that the foregoing laws and resolutions, passed at the first called session of the Twenty-second Legislature, have been carefully examined and compared with the original enrolled bills now on file in this department, and are true copies of said originals.

I further certify that the first called session of the Twenty-second Legislature convened, in pursuance to the proclamation of the governor, in the city of Austin, March 14, A. D. 1892, and adjourned April 12, A. D. 1892.

In testimony whereof I have subscribed my name, and have [SEAL] hereto affixed the seal of the State of Texas, in the city of Austin, May 21, A. D. 1892.

GEO. W. SMITH,
Secretary of State.

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GENERAL LAWS
OF
THE STATE OF TEXAS

PASSED AT THE
REGULAR SESSION OF THE TWENTY-THIRD LEGISLATURE

CONVENED
AT THE CITY OF AUSTIN

JANUARY 10, 1893, AND ADJOURNED MAY 9, 1893.



AUSTIN
1893

GENERAL LAWS OF TEXAS.

TWENTY-THIRD LEGISLATURE, 1893.

APPROPRIATION TO PAY MEMBERS MILEAGE AND PER DIEM, AND OFFICERS AND EMPLOYES PER DIEM.

CHAP. 1.—[S. B. No. 1.] An act appropriating one hundred and ten thousand dollars to pay members mileage and per diem, and officers and employes per diem, of the Twenty-third Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas: That the sum of one hundred and ten thousand dollars, or so much thereof as may be necessary, is hereby appropriated, out of the money in the Treasury not otherwise appropriated, for the payment of mileage and per diem pay of members and per diem pay of officers and employes of the Twenty-third Legislature.

Sec. 2. The certificate of the Secretary of the Senate, approved by the President thereof, or of the Chief Clerk of the House, approved by the Speaker thereof, shall be sufficient evidence to the Comptroller, upon which he shall audit the claims and issue his warrants upon the Treasurer for the respective amounts.

Sec. 3. And whereas, the Twenty-third Legislature is now in session, and public policy requires their payment; therefore an imperative public necessity exists that the constitutional rule requiring bills to be read on three several days be suspended, and it is so suspended, and this act shall take effect from and after its passage.

Approved January 17, A. D. 1893.

APPROPRIATION TO DEFRAY CONTINGENT EXPENSES.

CHAP. 2.—[S. B. No. 2.] An act making an appropriation to defray the contingent expenses of the Twenty-third Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas: That the sum of forty thousand dollars, or so much thereof as may be necessary, is hereby appropriated, out of any money in the treasury not otherwise appropriated, to pay the contingent expenses of the Twenty-third Legislature; that (except in cases of accounts for printing done and stationery furnished) the certificate of the chairman of the committee on contingent expenses that an account has been examined and approved by said committee and countersigned by the President of the Senate or Speaker of the House, as the case may be, shall be sufficient authority to authorize and require the Comptroller of Public Accounts to draw his

warrant on the State Treasurer for the payment of any claims against said fund. The accounts for printing and stationery shall take the course prescribed by the Revised Statutes.

Sec. 2. That the fact that it is important that the expenses of the Legislature be promptly paid, creates an emergency and a public necessity that the constitutional rule requiring bills to be read on three several days be suspended and this act take effect from its passage. It is so enacted.

Approved January 17, A. D. 1893.

APPROPRIATION TO PAY MILEAGE AND PER DIEM OF PRESIDENTIAL ELECTORS.

CHAP. 3.—[H. B. No. 15] An act to make an appropriation to pay the mileage and per diem of the presidential electors.

Section 1. Be it enacted by the Legislature of the State of Texas: That the sum of fifteen hundred dollars, or so much thereof as may be necessary, is hereby appropriated, out of any money in the treasury not otherwise appropriated, to pay the mileage and per diem of the presidential electors; that the certificate of the secretary of the college, stating the number of days the college was in session, shall be sufficient authority to the Comptroller to draw his warrant upon the Treasurer for the amount due each elector.

Sec. 2. Whereas, the electoral college has already met, public policy demands that they should be paid, an emergency exists and necessity demands that the constitutional rule requiring that bills be read on three several days be suspended, and that this act take effect from its passage. It is so enacted.

Approved January 27, A. D. 1893.

CHANGE OF VENUE IN CIVIL CASES—AMENDING ARTICLE 1272, TITLE 29, CHAPTER 9, RELATIVE THERETO.

CHAP. 4.—[S. B. No. 9.] An act to amend article 1272, title 29, chapter 9, of Revised Civil Statutes of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas: That article 1272, title 29, chapter 9, of the Revised Civil Statutes of the State of Texas, be so amended that it will hereafter read as follows:

Article 1272. Where application for a change of venue is made in conformity to the requirements of the preceding article, the same shall be granted, unless the credibility of the persons making the application for a change of venue, or their means of knowledge, or the truth of the facts set out in the said application, are attacked by the affidavit of a credible person, and if such application is thus attacked, the issue thus formed shall be tried by the judge, and the application granted or refused, as the law and the facts shall warrant.

Sec. 2. Whereas, under the law as it now exists no inquiry can be made into the truth of the application for a change of venue in civil cases; and

whercas, for the want of some provision of law whereby the trial court can make such inquiry, the venue in civil cases is being changed when the facts do not warrant the same, to the great loss and inconvenience to litigants, therefore an imperative public necessity and emergency exists that the constitutional rule requiring bills to be read on three several days be suspended, and this act take effect from and after its passage, and it is so enacted.

Approved February 11, A. D. 1893.

ASYLUM SUPPLIES—AMENDING THE LAW RELATIVE TO ADVERTISING FOR BIDS.

CHAP. 5.—[S. B. No. 24.] An act to amend article 143 of the Revised Civil Statutes of the State of Texas, concerning advertisements for bids to furnish supplies to asylums.

Section 1. Be it enacted by the Legislature of the State of Texas: That article 143 of chapter 3 of the Revised Civil Statutes of the State of Texas be and the same is hereby so amended as hereafter to read as follows:

Article 143. Advertisements for proposals: The Comptroller shall, on the first day of August of each year, and quarterly thereafter, advertise for sealed proposals for furnishing to the Superintendents of the Lunatic, Deaf and Dumb, and Blind Asylums certain supplies as hereinafter named, for two weeks in such daily newspapers, not exceeding three in number, in Texas, as he may select for that purpose: Provided, if a daily newspaper is published at or near the town or city where either of said asylums are situated, one paper shall be selected from said town or city, provided said paper charges the same price for advertising said bids as are charged by other papers selected prior to the day of opening said bids. Such advertisements shall state the articles for which bids shall be received, and bids shall be made separately as hereinafter named.

Approved February 11, A. D. 1893.

MINORS—SUITS BY NEXT FRIEND.

CHAP. 6.—[S. B. No. 7.] An act to authorize minors to bring suits by next friend, and to provide for the disposition of the funds that may be recovered in such suits, and to define the duties of the next friend.

Section 1. Be it enacted by the Legislature of the State of Texas: That any minor having a sufficient cause of action, and who has no legal guardian, can bring suit in any of the courts of this State by next friend, and such next friend shall have the same rights concerning such suit and the matter therein involved as if he were guardian of such minor: Provided, he shall not be relieved from giving security for cost, or affidavit in lieu thereof, and can not collect the proceeds of any moneyed judgment he may recover, except as herein specified.

Sec. 2. Such next friend, or the attorney of record, of such minor may enter into such agreed judgment or compromise in such suit as the court may approve, and the decree entered upon such agreement or com-

promise, when approved by the court, shall be forever binding on said minor, and can divest title out of the min[or] or vest it in him, when the court is satisfied such decree is for the best interest of the minor, under all the circumstances; and the court may hear evidence touching upon such agreement or compromise before approving the same.

Sec. 3. Whenever in any suit pending in this State any minor recovers a personal judgment for money or other personal property in which the interest of the minor does not exceed the value of five hundred dollars, and said minor has no guardian, such next friend or any person authorized by the court to do so, by an order entered of record, may take charge of said money or property for the benefit of said minor upon giving bond in such sum as shall be ordered by the court, which shall not be less than double the value of the property, conditioned that he will pay over said money and lawful interest thereon and deliver said property and its increase to the minor when he becomes of age, or to his legally qualified guardian when demanded, and that he will pay or deliver the same to such person appointed by the court, when ordered by the court to do so, and that he will use such money or property for the benefit of the minor as ordered by the court.

Sec. 4. Such person who takes such money or property shall receive no fees or commissions for caring for or handling the same, but shall receive such compensation for caring for or handling the same as may be allowed by the court, and shall make such disposition thereof and at all times as the court may order; may be required to return such money or property into court upon the order of the court, when the court may make such further disposition of the money or property as is deemed best for the minor.

Sec. 5. Whenever any attorney or other person has any interest in such recovery or judgment the court may hear evidence as to such interest, and if deemed just shall order such claim, or such part as is deemed just, to be paid to such person who is entitled to receive the same.

Sec. 6. The fact that there is now no law upon this subject, and the great need for it, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days should be suspended, and this act take effect and be in force from and after its passage, and it is so enacted.

Approved February 11, A. D. 1893.

LABOR DAY—LEGAL HOLIDAY.

CHAP. 7.—[S. B. No. 74.] An act to amend article 2835, title 49, of the Revised Civil Statutes of Texas (Statutes of 1879), relating to legal holidays, naming the first Monday in September of each year as a legal holiday to be called "Labor Day."

Section 1. Be it enacted by the Legislature of the State of Texas: That article 2835 of the Revised Civil Statutes of Texas (Statutes of 1879) shall hereafter read as follows:

Article 2835. The first day of January, the twenty-second day of February, the second day of March, the twenty-first day of April, the fourth day of July, the first Monday in September, and the twenty-fifth day of December, of each year, and all days appointed by the President of the

United States, or by the Governor, as days of fasting and thanksgiving, and every day on which an election is held throughout the State, are declared holidays on which all the public offices of the State may be closed, and shall be treated and considered as Sunday, or the Christian Sabbath, for all purposes regarding the presenting for payment or acceptance and of protesting for and giving notice of the dishonor of bills of exchange, bank checks, and promissory notes placed by the law upon the footing of bills of exchange.

Approved February 11, A. D. 1893.

DEPOSITIONS.

CHAP. 8.—[H. B. No. 3.] An act to amend article 2235, chapter 3, title 38, of the Revised Civil Statutes of the State of Texas, relating to depositions.

Section 1. Be it enacted by the Legislature of the State of Texas: That article 2235, chapter 3, title 38, of the Revised Civil Statutes of the State of Texas, be so amended as to read as follows:

Article 2235. When a deposition shall have been filed in the court at least one entire day before the day on which the case is called for trial, no objection to the form thereof or to the manner of taking the same shall be heard unless such objections are in writing and notice thereof is given to the opposite counsel before the trial commences; Provided, however, that such objection shall be made and determined at the first term of the court after the deposition has been filed, and not thereafter.

Approved February 11, A. D. 1893.

WEBB COUNTY—DIMINISHING JURISDICTION OF COUNTY COURT.

CHAP. 9.—[S. B. No. 27.] An act to diminish the jurisdiction of the county court of Webb county, and to conform the jurisdiction of the district court of Webb county to such change.

Section 1. Be it enacted by the Legislature of the State of Texas: That the county court of Webb county shall have and exercise the general jurisdiction of a probate court; it shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards; grant letters testamentary and of administration; settle accounts of executors; transact all business appertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlement, partition, and distribution of estates of deceased persons; it shall have power to apprentice minors, as provided by law, and the county court or judge thereof shall have power to issue all writs necessary to the enforcement of its jurisdiction.

Sec. 2. That the district court of Webb county shall have and exercise all the civil and criminal jurisdiction heretofore vested by the Constitution and laws in the county court of Webb county, including appeals from mayors' or recorders' courts and justices' courts of said county, but which is divested out of the said county court by the provisions of this act.

Sec. 3. That the clerk of the county court of Webb county, within twenty days after the passage of this act, shall make a complete transcript of all orders on the dockets of the county court of Webb county, in cases pending therein, of which the district court of said county shall have jurisdiction under the provisions of this act, and shall deliver the transcript in each case, together with the original papers therein, and a certified bill of costs, to the clerk of the district court of Webb county; and the clerk of the said district court shall enter the said cases on the appropriate dockets of said court, and the same shall remain for trial in the district court of Webb county, in order as they stood on the dockets of the county court, and as appearance cases, in said district court, and shall be tried in said court as other cases; and all process now issued and returnable to the county court of Webb county in such cases shall be returnable to the district court of Webb county.

Sec. 4. That the clerk of the county court of Webb county shall issue execution upon all judgments that may have been rendered in said court, and collect the same as now allowed by law, but all suits that may arise out of any such execution, by injunction or trial of the right of property, shall be filed in and tried by the district court of Webb county.

Sec. 5. That all laws and parts of laws in conflict with any of the provisions of this act be and the same are hereby repealed.

Sec. 6. Whereas, by the operation of this act the county of Webb will make a large saving of expense, and the disposition of litigated questions and criminal prosecutions will be greatly facilitated, an emergency and an imperative public necessity exist requiring that the rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved February 11, A. D. 1893.

INDIAN DEPREDAATION CLAIMS.

CHAP. 10.—[H. B. No. 508.] An act to amend article 1827 of the Revised Civil Statutes of Texas, and provide for administrators of estates of deceased persons to sue for Indian depredation claims in the United States Court of Claims, under the act of Congress passed March 3, 1891.

Section 1. Be it enacted by the Legislature of the State of Texas: That article 1827 of the Revised Statutes of this State be so amended as to hereafter read as follows:

Article 1827. All applications for the grant of letters testamentary or [of] administration upon an estate must be filed within four years after the death of the testator or intestate, and if four years have elapsed between the death of such testator or intestate and the filing of such application, such application shall be refused and dismissed: Provided, that this act shall not apply to citizens of this State who have suffered losses by Indian depredations and have died since such loss, and make the application for the purpose of recovering compensation for such loss. In all such cases the proper courts of this State are authorized to grant letters of administration upon the estate of any citizen, without regard to the date of his death, when the applicant for letters alleges in his application that the testator or intestate suffered losses by Indian depredation and that

letters are sought for the purpose of enabling him or her to bring suit in the United States Court of Claims to recover compensation for such loss, under the act of Congress of March 3, 1891, entitled "An act to provide for the adjudication and payment of claims arising from Indian depredations."

Sec. 2. The fact that under the act of Congress, mentioned in the preceding section, all such claims will be barred on the 4th day of March, 1894, a public necessity and emergency exists for the suspension of the constitutional rule requiring bills to be read on three several days, and it is hereby suspended, and this act shall take effect and be in force from and after its passage.

Approved February 27, A. D. 1893.

DIMMIT COUNTY—DIMINISHING JURISDICTION OF COUNTY COURT.

CHAP. 11.—[H. B. No. 5.] An act to diminish the civil and criminal jurisdiction of the county court of Dimmit county.

Section 1. Be it enacted by the Legislature of the State of Texas: That the county court of Dimmit county shall have and exercise the general jurisdiction of probate courts; shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards, grant letters testamentary and of administration, settle accounts of executors, administrators and guardians, transact all business appertaining to the estates of deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlement, partition and distribution and settlement of estates of deceased persons, and to apprentice minors, as provided by law, and issue writs necessary to the enforcement of said jurisdiction, to punish contempt under such provisions as are or may be provided by general law governing county courts throughout the State; but the said county court of Dimmit county shall have no other civil or criminal jurisdiction whatever.

Sec. 2. The district court of Dimmit county shall have and exercise jurisdiction in all civil and criminal matters and causes over which by the laws of this State the county court of said county would have jurisdiction, except as provided in section 1 of this act; and all causes other than probate matters and such as are provided by section 1 of this act be and the same are hereby transferred to the district court of Dimmit county; and all writs and process relating to any civil or criminal matters not included in the subject matter of jurisdiction prescribed in section 1 of this act issued by or out of said court of Dimmit county, be and the same are hereby made returnable to the next term of the district court of said county.

Sec. 3. The county clerk of the county of Dimmit be and he is hereby required, immediately after the passage of this act, to make a fair and complete abstract of all entries upon his civil and criminal docket heretofore made in cases pending, whereby [which by] section 2 are required to be transferred to the district court of said county, and deliver the same to the district clerk of said county, together with all the papers to such causes pertaining, and all such causes shall be immediately docketed by said dis-

trict clerk; and such civil causes so transferred shall stand on the docket of said court as appearance cases for the next succeeding term, and all criminal cases shall be docketed and disposed of in the same manner as if the same had originally been triable in said district court.

Sec. 4. This act shall not be construed to in any manner affect judgments heretofore rendered by said county court of Dimmit county, pertaining to matters and causes by which [which by] section 2 of this act are transferred to the district court of said county, but the county clerk of said county shall issue all executions and orders of sale as the judgments in such causes require, and such executions and orders of sale and proceedings thereunder, shall be as valid and binding to all intents and purposes as though the change had not been made, as provided in section 2 of this act.

Sec. 5. All laws and parts of laws in conflict with this act are hereby repealed.

Sec. 6. The near approach to the sitting of the next term of the said county court of Dimmit county, and the short time required to make the transfer of the cases provided herein, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be so suspended, and it is so suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved February 27, A. D. 1893.

COURTS OF CIVIL APPEALS—FIXING COMPENSATION OF CLERKS.

CHAP. 12.—[S. B. No. 151.] An act to amend section 50 of an act entitled "An act to organize the courts of civil appeals, to define their jurisdiction and powers, and to prescribe the mode of procedure therein," as enacted by the first called session of the Twenty-second Legislature in 1892, and to repeal all laws in conflict therewith.

Section 1. Be it enacted by the Legislature of the State of Texas: That section 50 of an act entitled "An act to organize the courts of civil appeals, to define their jurisdiction and powers, and to prescribe the mode of procedure therein," enacted by the first called session of the Twenty-second Legislature, in 1892, be amended so as to hereafter read as follows:

Sec. 50. The clerks of the courts of civil appeals shall receive as compensation for their services the following fees:

Entering appearance of either party in person or by attorney, to be charged but once	\$0.50
Docketing each cause, to be charged but once.....	.50
Filing the record in each cause.....	.50
Entering rule or motion.....	.25
Entering the order of the court upon any rule or motion, or entering any interlocutory judgment .....	.50
Administering an oath or affirmation without a certificate.....	.15
Administering an oath or affirmation and giving certificate thereof with seal .....	.25
Entering each continuance .....	.20

Entering each final judgment or decree.....	\$1.00
Each writ issued	1.00
Making out and transmitting the mandate and judgment of the court to any inferior court	1.50
Making copies of any papers or record in their offices, including certificate and seal, for each hundred words.....	.10
Recording the opinion of the judges, for each hundred words...	.15
Taxing the bill of costs in each case.....	.50

Sec. 2. That all laws and parts of laws in conflict with this act be and the same are hereby repealed.

Sec. 3. The clerks of said courts of civil appeals shall be entitled to receive the fees herein enumerated for all work done since the organization of said courts of civil appeals.

Sec. 4. Whereas, the clerks of said courts of civil appeals are receiving no compensation for their services, and there is no law in force providing fees for said clerks, an emergency and imperative public necessity exists that the constitutional rule requiring bills to be read on three several days be suspended, and it is so suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved March 2, A. D. 1893.

APPROPRIATION—COURTS OF CIVIL APPEALS—PROVIDING FOR SALARY DUE JUDGES.

CHAP. 13.—[S. B. No. 63.] An act to provide for the payment of salary due the Judges and Assistant Reporters of Courts of Civil Appeals of the State of Texas, from September 1, 1892, to March 1, 1893.

Section 1. Be it enacted by the Legislature of the State of Texas: That the sum of fifteen thousand seven hundred and fifty dollars, or so much thereof as may be necessary, be and is hereby appropriated to the payment of the salaries of the judges of the Courts of Civil Appeals of the first, second, and third supreme judicial districts of the State of Texas, from the first day of September, 1892, to the first day of March, 1893; and that the Comptroller issue to each of said judges warrants upon the State Treasurer for the amounts due each respectively.

Whereas, the law providing for the organization of the several Courts of Civil Appeals went into effect September 1st, 1892, and at that time there were appointed by the Governor of the State of Texas nine judges of said courts; and

Whereas, at the last general election there were elected nine judges of said courts, and no appropriation has been made for the payment of the salaries due said judges, and they having been performing their official functions since September 1st, 1892, without any pay from the State;

For the above reasons it is important that this act become a law, and it is declared that an emergency and public necessity exist that the constitutional rule requiring bills to be read on three several days be suspended, and it is declared that this act take effect from and after its passage.

Approved March 2, A. D. 1893.

RAILROADS—EXTENDING TIME FOR BEGINNING CONSTRUCTION, ETC.

CHAP. 14.—[S. B. No. 16.] An act for the relief of railroads and belt and suburban railway companies having charters granted or amended since January 1, 1887, which have failed or are about to fail to comply with article 4278, Revised Statutes.

Section 1. Be it enacted by the Legislature of the State of Texas: That the time in which any railroad company chartered under the laws of the State of Texas since January 1, 1887, or the charter to which has been amended since that date, is required to begin the construction of its road and construct, equip, and put the same in good running order as to the part of such road as provided for in article 4278 of the Revised Statutes of the State of Texas, and amended April 8, 1889, is and the same is extended for two years from the passage of this act; and any railway company having been chartered since January 1, 1887, or the charter to which has been amended since said date, which shall have forfeited its corporate existence, rights, and powers, or is about to do so by reason of failure to comply with said article 4278, or any part of said article, shall have restored and preserved to it its corporate existence, and it shall have and enjoy all of the corporate franchises, property, and rights and powers held or acquired by it previous to any cause of forfeiture on account of such failure as aforesaid: Provided, that no railroad company which shall be revived or the time extended by virtue of this act shall claim or exercise any right or franchise not now allowed, granted, or permitted to other railway corporations under the laws as now in force in this State, and such railroad company as may be revived or time extended by this act shall comply with the laws of this State now in force appertaining to railway corporations. And the provisions of this act shall extend to and embrace suburban and belt railroads heretofore chartered under the laws of this State.

Sec. 2. The fact that no good can result to the State from the forfeiture provided for in [the] acts of 1889, and that the public convenience will be promoted by work beginning at once on some of said railways, and that citizens in many parts of the State having invested in railway enterprises will sustain great loss unless the relief herein provided be granted, create an emergency and an imperative public necessity authorizing the suspension of the constitutional rule requiring bills to be read on three several days, and demanding that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 21st day of February, A. D. 1893, but was not signed by him, nor returned to the House in which it originated with his objections thereto, within the time prescribed by the Constitution, and thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

REAL ESTATE—EXECUTION SALES—MODE AND MANNER
OF ADVERTISING.

CHAP. 15.—[H. B. No. 18.] An act to amend article 2309 of the Revised Civil Statutes, and to fix the time and place of making sales of real estate under execution, order of sale, or venditioni exponas, and to prescribe the mode and manner of advertising such sales.

Section 1. Be it enacted by the Legislature of the State of Texas: That article 2309 of the Revised Statutes of the State of Texas shall hereafter read as follows:

“Article 2309. The time and place of making sale of real estate under execution, order of sale, or venditioni exponas, shall be advertised by the officer by having notice thereof published in the English language, once a week for three consecutive weeks immediately preceding such sale, in some newspaper published in such county. The first of such publication shall appear not less than twenty days immediately preceding the day of sale; said notice shall contain a statement of the authority by virtue of which the sale is made, the time of levy, and the time and place of sale, and shall state the locality of the property, giving a brief description thereof, sufficient to enable it to be reasonably known and identified. The fees allowed for such publication shall be seventy-five cents per square for the first insertion and fifty cents per square for each of the two subsequent insertions, to be taxed and paid as other costs. In such publications ten lines shall constitute a square, and the body of such advertisement shall not be printed in larger type than brevier. If there be no newspaper published in the county, or none the publisher of which will publish the notice of sale for the compensation herein fixed, the officer shall post such notice in writing in three public places in the county, one of which shall be at the court house door of such county, for at least twenty days successively next before the day of sale: Provided, that if the defendant in execution so desires he may, by notifying the clerk or justice of the peace issuing such execution, have the time and place of such sale publicly advertised by the officer making the same for at least twenty days successively next before the day of sale, by posting up written or printed notices thereof at three public places in the county, one of which shall be at the court house door of the county; and the said clerk or justice of the peace when so notified shall make a note of such request upon such execution and order of sale, and if such request is not made and so noted it shall be prima facie evidence that said sale shall be advertised in such newspapers as provided in this act.

Sec. 2. All laws and parts of laws in conflict herewith are hereby repealed.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 25th day of February, A. D. 1893, but was not signed by him, nor returned to the house in which it originated with his objections thereto, within the time prescribed by the Constitution, and thereupon became a law without his signature.—Geo. W. Smith, Secretary of State.]

TYLER COUNTY—RESTORING CIVIL AND CRIMINAL JURISDICTION TO COUNTY COURT.

CHAP. 16.—[S. B. No., 107.] An act to restore to the county court of Tyler county civil and criminal jurisdiction.

Section 1. Be it enacted by the Legislature of the State of Texas: That the county court of Tyler county shall have concurrent original jurisdiction of all misdemeanors of which exclusive original jurisdiction is not given to the justice courts as the same are now and may be hereinafter prescribed by law, and exclusive original jurisdiction of all misdemeanors where the fine to be imposed shall exceed two hundred dollars, or where the punishment is by imprisonment in the county jail, either absolutely or in the alternative. And they [it] shall have exclusive original jurisdiction in all civil cases when the matter in controversy shall exceed in value two hundred dollars and not exceed five hundred dollars, exclusive of interest, and concurrent jurisdiction with the district court when the matter in controversy shall exceed five hundred dollars and not exceed one thousand dollars, exclusive of interest; but shall not have jurisdiction of suits for the recovery of land. They [it] shall have appellate jurisdiction in cases, civil and criminal, of which justices' courts have original jurisdiction, under such regulations as are now or may hereafter be prescribed by law. In all appeals from justices' courts there shall be a trial *de novo* in the county court, and an appeal shall lie to the courts of civil appeals, under such regulations as may be prescribed by law. And the county court, or judge thereof, shall have power to issue writs of mandamus, injunction, and all other writs necessary to the enforcement of the jurisdiction of said courts; and to issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the county court, or any other court or tribunal inferior to said court.

Sec. 2. All causes now pending in the district court of Tyler county, of which the said county court has jurisdiction under the provisions of this act and all laws giving jurisdiction to the county court, shall be transferred to the county court of said county.

Sec. 3. The clerk of the district court of said Tyler county shall, thirty days from the date this act takes effect, transfer to the clerk of the county court of said county all the original papers in causes transferred under this act, together with a certified transcript of all entries made on the docket of the district court in said causes, and a certified bill of all costs accrued in such causes. And for making out such transcript of the docket the clerk of the district court shall be allowed such fees as are now allowed by law for making out transcripts in cases of appeals, such fees to be taxed as costs in such suits.

Sec. 4. All laws and parts of laws in conflict with the provisions of this act be and they are hereby repealed.

Sec. 5. Whereas, a great number of cases, both civil and criminal, are now pending in the district court of said county, that it is impossible to dispose of them in said court, creates an emergency, and an imperative public necessity requires a suspension of the constitutional rule for bills to be read on three several days, and the said rules are hereby suspended,

and this act shall take effect and be in force from and after its passage, and it is so enacted.

Approved March 8, A. D. 1893.

JUDICIAL DISTRICTS—THIRTY-FOURTH.

CHAP. 17.—[S. B. No. 129.] An act to amend the act creating the thirty-fourth judicial district, and fixing the times for holding the terms of court therein, and all acts amendatory thereof, and to repeal all laws in conflict with this act.

Section 1. Be it enacted by the Legislature of the State of Texas: That the thirty-fourth judicial district shall be composed of the counties of El Paso, Reeves, Presidio, and Ward, and the unorganized counties of Loving and Winkler.

Sec. 2. The district court shall be begun and held in said counties as follows: In the county of Ward on the last Monday in February and August of each year, and may continue one week. In the county of Reeves on the first Monday in March and September of each year, and may continue in session two weeks. In the county of Presidio on the second Monday after the first Monday in March and September, and may continue in session two weeks. In the county of El Paso there shall be begun and held three terms of the district court during each year, as follows: On the first Monday in January, and may continue in session until the last Monday in February. On the fourth Monday after the first Monday in March, and may continue in session until the first day of July. On the fourth Monday after the first Monday in September and may continue in session until the first Monday in January following.

Sec. 3. That all writs and processes returnable to the said courts shall be returnable to the terms of the said courts as herein fixed, and all such writs and process as have been issued, executed, and returned, shall be valid as if no change had been made in the time of holding said courts by the passage of this act.

Sec. 4. That all laws and parts of laws in conflict with this act be and the same are hereby repealed, and this act shall take effect from and after its passage.

Sec. 5. The crowded condition of the docket of the district court of El Paso county, and the fact that no time for holding district court in Ward county is fixed by law, causes an emergency to exist that this act take effect from and after its passage, and the pressing necessity for this act creates an imperative public necessity that the constitutional rule requiring bills to be read on three several days be and the same is hereby suspended.

Approved March 8, A. D. 1893.

ROADS—CALDWELL COUNTY.

CHAP. 18.—[H. B. No. 109.] An act to create a more efficient road system in the county of Caldwell, and auxiliary thereto, to provide for the appointment of road overseers; to define the powers and jurisdiction of the commissioners court with regard thereto; to utilize the labor of county convicts and defaulting poll tax payers on the public roads of said county; and to provide adequate penalties for the violation of the provisions of this act.

Section 1. Be it enacted by the Legislature of the State of Texas: That the commissioners court of Caldwell county may appoint a road overseer for each commissioner's precinct in the county, or for each justice's precinct, who shall hold their offices for two years, and until their successors are qualified.

Sec. 2. The overseer so appointed shall perform all the duties required of overseers under the general laws of this State, and such other duties as may be required of them by the commissioners court of said county, and shall receive such compensation as the commissioners court may prescribe, not to exceed two dollars per day for the time actually engaged.

Sec. 3. Each overseer shall, within twenty days after his appointment, take the constitutional oath, and enter into bond, payable to the county judge, in such sum as may be fixed by the commissioners court, to be approved by the county judge, conditioned that he will well and faithfully discharge all of the duties incumbent upon him as such overseer, that he will promptly make all reports required of him by this act, or by the commissioners court, and that he will correctly disburse and account for all funds that may come into his hands, according to law, and the orders of the commissioners court, which bond shall not be void for want of form, or void on the first recovery, but may be sued upon until fully exhausted.

Sec. 4. The commissioners court may, for good cause, to be determined by themselves, at any time remove an overseer; and, in case of vacancy from any cause, may fill the same for the unexpired term.

Sec. 5. Each overseer shall take charge of all tools, implements, teams, and supplies of any kind placed under his control by the commissioners court, and execute his receipt therefor, which shall be filed with the county clerk; and he shall be responsible for all such tools, teams, implements, and supplies, and for the proper expenditure of all public moneys coming into his hands, and shall be liable for the loss, injury, or destruction of all such tools, teams, implements, and supplies, if the result of his negligence, or for the wrongful or unauthorized expenditure of such money; and upon the expiration of his term, or in case of his resignation or removal, he shall deliver all such money and property to his successor, or to such person as the commissioners court may direct.

Sec. 5a. The overseer of each precinct shall subdivide his precinct into as many sections as may be necessary or convenient, and shall require each person subject to road duty in his precinct to work upon the roads in the particular section in which he resides, and in order to have all road work more promptly and vigorously prosecuted, the overseer may appoint suboverseers in the several sections of his precinct; but the overseer himself shall exercise at all times a supervision over the different sections and suboverseers, and shall plan and direct all work to be done, and may require the suboverseers to warn all road hands subject to duty of the time and place of working, as is required by existing laws.

Sec. 6. The commissioners court shall require all able bodied county convicts, not otherwise more profitably employed, to labor upon the public roads of the county, or upon the public streets of some city or town in the county, under such regulations as it may prescribe, and each convict so employed shall receive credit, first upon the fine and then upon the cost, of fifty cents per day for each day he may labor: Provided, that no convict shall be required to labor on Sunday, but shall, nevertheless, have the same credit as if he had labored on that day.

Sec. 7. The commissioners court may, at any regular term, allow to the officers and witnesses in a convict case, where the convict is worked upon the roads, such portion of their lawful cost as it may determine, not to exceed in any case the following county judge, \$2.50; county attorney, \$5.00, including commissions; county clerk and justice of the peace, \$2.00; sheriff and constable, \$2.50; witnesses, twenty-five per cent of their legal fees: which allowances shall be paid out of the road and bridge fund, on the warrant of the county judge, when said fine and cost shall have been worked out by the convict as provided in this act. The commissioners court may provide the necessary houses, prisons, food, clothing, bedding, medicine, medical attention, and guards necessary for the safe-keeping and humane treatment of such convicts, and may grant a reasonable commutation of time to a convict, in consideration of faithful service and good behavior, such commutation in no case to exceed one-tenth of the entire time.

Sec. 8. The overseers may contract with any person subject to road duty in their precinct for the use of wagons and teams, and permit such person to discharge his road service in the hire of such wagon and team: Provided, he shall not allow more than \$2.00 per day for any wagon and team, nor more than \$3.00 per day for wagon and team and driver.

Sec. 9. It shall be the duty of each overseer to see that all roads, bridges, culverts, and drains in his precinct are kept in good repair; to see that every person subject to road duty in his precinct performs the service for which he is liable under the law, or that such service is in some way excused or commuted as provided by law; to see that all mile posts and guide boards at the forks of roads are kept continuously up and in order, and when the same are removed or defaced, to immediately repair or replace them. He shall act as supervisor of roads in his precinct, and perform all the duties as supervisor heretofore devolving upon the county commissioners; and the county commissioners of said county are hereby relieved from the duties prescribed by article 4390a of the Revised Civil Statutes.

Sec. 10. Every able bodied male person between the ages of twenty-one and forty-five years, resident in the county, except such persons as are exempt from road duty under the general laws of this State, shall be liable to labor on the public roads: Provided, that any one so liable may discharge said liability:

1. By furnishing a substitute who is acceptable to the overseer.
2. By paying to the overseer the sum of one dollar for each day he may be summoned to work, or by paying four dollars at any one time, shall be discharged from all liability for the entire year, to end on December 31st of each year.
3. By producing to the overseer the certificate of a reputable practi-

ing physician, certifying that the party is permanently or temporarily incapacitated for such physical labor as is necessary for road service.

4. By substituting wagons and teams suitable and satisfactory to the road overseer, as provided in section 8 of this act.

Sec. 11. Every insolvent poll tax payer, being a resident of the county, who shall be indebted to the county on any unpaid county poll tax, and from whom the said poll tax can not be otherwise collected by law, shall be permitted to discharge the amount of such unpaid county poll tax in labor upon the public roads of his precinct, at the rate of one dollar per day; and in order to enforce the provisions of this section, the collector of taxes for the county shall be required, on or before the second Monday in February of every year, to furnish to the several overseers of the county the names of all defaulting poll tax payers, together with the amount of county poll tax due and unpaid by each; for which *ex officio* service the collector shall be exempt from road duty. And it shall be the duty of the overseer whenever any such person shall have discharged his county poll tax as herein provided, to report the same to the tax collector, who shall credit the party on the tax roll and report the same in his regular reports to the commissioners court: Provided, that no fines or penalties shall be recovered of insolvent poll tax payers for failure to work out their poll tax under the provisions of this act.

Sec. 12. Each road overseer shall make his report, under oath, to the commissioners court every six months, giving an itemized statement of all money belonging to the road fund which he has received, from whom received, and for what, and what disposition he has made of the same; the condition of all roads, bridges, culverts, and drains; the numbers and character of all mile posts and guide boards erected, and where the same are located; and such other information as the commissioners court may require; and may accompany said report with such suggestions as may seem to him pertinent in regard to the public roads and the duties of his office.

Sec. 13. Any road overseer who shall willfully or negligently fail or refuse to comply with any provision of this act, or to perform any lawful and reasonable order of the commissioners court, or to discharge any duty imposed upon him by this act, or by any other existing law of the State, not in conflict herewith, shall be deemed guilty of a misdemeanor, and on conviction thereof, in a court of competent jurisdiction, shall be punished by fine of not less than ten nor more than one hundred dollars, such fine, when collected, to go into the road and bridge fund.

Sec. 14. Whenever it shall be necessary to occupy any private lands for the purpose of opening, widening, straightening, or draining any public road or part thereof, if the owner of such land and the commissioners court can not agree upon the amount of damage to be paid, the county may proceed to condemn the same in the same manner that a railroad company can condemn land for right of way, and the same proceedings may be had, and the same rights shall exist to each party, as would exist if the proceedings were by a railroad company, except that the county shall in no case be required to give bond either for cost or on appeal.

Sec. 15. This act shall be cumulative of all general laws of the State on the subject of roads and bridges, and employment of county convicts, not in conflict herewith, and where not otherwise provided herein such general laws shall apply, but in case of conflict with general laws this act

shall govern; and the courts of the State shall have and take judicial cognizance of this act in the same manner and to the same extent as they are required to know and notice the general laws of the State.

Sec. 16. The vast amount of important business pending, and the fact that the roads of said county are in a deplorable condition for the want of a more efficient road law, creates an emergency, and an imperative public necessity exists that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect from and after its passage, and it is so enacted.

Approved March 8, A. D. 1893.

JUDICIAL DISTRICT—FORTY-NINTH.

CHAP. 19.—[S. B. No. 150.] An act to amend section 2 of an act to amend an act approved March 25, 1889, being an act to amend an act to re-enact section 28 of an act to redistrict the State into judicial districts and fix the time for holding court therein, and to provide for the election of judges and district attorneys in said district at the next general election, to be held on the first Tuesday after the first Monday in November, 1884, approved April 9, 1883; and to amend said section 28 of said act, approved February 26, 1885, and to create the forty-ninth judicial district; to provide for the appointment and election of a district judge and district attorney therein, and to repeal all laws and parts of laws in conflict therewith, passed at the regular session of the 22d Legislature, being chapter 39 of the acts thereof.

Section 1. Be it enacted by the Legislature of the State of Texas: That section two (2) of the above recited act be so amended as hereafter to read as follows: Section 2. The forty-ninth judicial district shall be composed of the counties of Duval, Encinal, Webb, and Zapata, and the district courts shall be held therein as follows: In the county of Webb on the first Monday in October, and may continue in session six (6) weeks; on the first Monday in January, and may continue in session eight (8) weeks, and on the first Monday in May, and may continue in session ten (10) weeks. In the county of Duval on the fifth Monday before the first Monday in May, and may continue in session three (3) weeks; and on the sixth Monday after the first Monday in October, and may continue in session three (3) weeks. In the county of Zapata on the second Monday before the first Monday in May, and may continue in session two (2) weeks; and on the ninth Monday after the first Monday in October, and may continue in session two (2) weeks.

Sec. 2. That all process issued or served before this act goes into effect, returnable to the district court of any of the counties mentioned in this act, shall be considered as returnable to the said court at the next ensuing term to be held in said county under the provisions of this act, and such process is hereby validated; and all grand and petit juries drawn and selected under the law as it now exists shall be considered as legally drawn and selected for the terms of court as provided in this act.

Sec. 3. That all laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

Sec. 4. That an emergency and an imperative public necessity exist in the fact that the time for holding court in Webb county, as now pre-

scribed, is inadequate, and more time is required in order to dispatch the business of said court, wherefore, the constitutional rule requiring bills to be read on three several days should be suspended, and this act should take effect and be in force from and after its passage, and it is so enacted.

Approved March 8, A. D. 1893.

MARION COUNTY—RESTORING CIVIL JURISDICTION TO COUNTY COURT.

CHAP. 20.—[H. B. No. 101.] An act to restore to and confer upon the county court of Marion county the civil jurisdiction heretofore belonging to said county under the Constitution and general statutes of the State, and to conform the jurisdiction of the district court of said county to said change.

Section 1. Be it enacted by the Legislature of the State of Texas: That the county court of Marion county shall hereafter have exclusive original jurisdiction in civil cases where the matter in controversy shall exceed in value two hundred dollars, and not exceed five hundred dollars, exclusive of interest; and shall have concurrent jurisdiction with the district court of said county when the matter in controversy shall exceed five hundred dollars, and not exceed one thousand dollars, exclusive of interest.

Sec. 2. Said county court shall have appellate jurisdiction in civil cases over which justice courts have original jurisdiction, when the judgment of the court appealed from or the amount in controversy shall exceed twenty dollars, exclusive of costs; and said county court shall have power to hear and determine cases brought up from the justice court by certiorari, under the provisions of the title of the Revised Civil Statutes relating thereto.

Sec. 3. The county judge of said county shall have authority, either in term time or in vacation, to grant writs of mandamus, injunction, sequestration, garnishment, attachment, certiorari, supersedeas, and all other writs necessary to the enforcement of the jurisdiction of the said court, and shall also have power to issue writs of habeas corpus in all cases in which the Constitution has not exclusively conferred the power on the district court or the judge thereof.

Sec. 4. Said county court shall have jurisdiction in the forfeiture and judgment on all bonds and recognizances taken in criminal cases of which criminal cases said court has jurisdiction.

Sec. 5. Said county court shall have exclusive original jurisdiction of all misdemeanors, except misdemeanors involving official misconduct, and except cases in which the highest penalty of fine may be imposed under the law may not exceed two hundred dollars, and said court shall also have appellate jurisdiction in criminal cases of which justices of the peace and other inferior tribunals of said county have original jurisdiction.

Sec. 6. The district court of Marion county shall no longer have jurisdiction in cases in which the county court of said county, by the provisions of this act, have exclusive original or appellate jurisdiction; and it shall be the duty of the clerk of the district court of Marion county, within thirty days from the passage of this act, to make a full and complete transcript of all orders on his docket in cases now pending before the said district

court, of which cases, by the terms of this act, exclusive jurisdiction is given to the county court, and to deliver said transcript, together with the original papers and certified bill of costs, to the clerk of said county court, and said county clerk shall enter said case or cases on his docket for trial by said county court.

Sec. 7. The county court of said county shall hereafter hold its regular terms of civil or criminal business as provided in the Constitution and general laws of the State, and process heretofore issued from the district court of said county in cases to be transferred under this act to the county court, shall be returnable to the first term of the county court, and all civil cases transferred shall be entered as appearance cases upon the docket of said county court.

Sec. 8. The county court of the said county of Marion shall have, as now, the general jurisdiction of probate courts, for the probate of wills, appointment of guardians of minors, idiots, and lunatics, persons non compos mentis, and common drunkards, and for the issuance of letters testamentary and of administration, settlement of accounts of administrators and guardians, and the settlement and distribution of decedents' estates, and the apprenticeship of minors, and all other necessary powers conferred by law on courts of probate.

Sec. 9. All laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed, and that this act take effect and be in force from and after its passage, and it is so enacted.

Sec. 10. The great necessity for this law creates an imperative public necessity and emergency, requiring the constitutional rule that bills be read on three several days in each house be suspended, and the same is therefore suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved March 9, A. D. 1893.

NUECES, McMULLEN AND SAN PATRICIO COUNTIES—RESTORING CIVIL AND CRIMINAL JURISDICTION TO COUNTY COURTS.

CHAP. 21—[H. B. No. 416.] An act to repeal an act entitled "An act to diminish the civil and criminal jurisdiction of the county courts of Henderson, Parker, Uvalde, Lampasas, Blanco, Bexar, Kimble, Nueces, Gillespie, Kendall, Wheeler, Oldham, Bandera, Wharton, McMullen, Medina, Frio, Dimmit, LaSalle, Hidalgo, Starr, Zapata, Duval and Burnet counties, and to conform the jurisdiction of the district and justice courts of said counties to such change," approved February 25, 1881, as far as same relates to Nueces, McMullen, and San Patricio counties, and reinvest the county courts of Nueces, McMullen, and San Patricio counties with the jurisdiction, criminal and civil, which they had and exercised prior to the passage of said act diminishing the jurisdiction of said courts.

Section 1. Be it enacted by the Legislature of the State of Texas: That an act entitled "An act to diminish the civil and criminal jurisdiction of the county courts of Henderson, Parker, Uvalde, Lampasas, Blanco, Bexar, Kimble, Nueces, Gillespie, Kendall, Wheeler, Oldham, Bandera, Wharton, McMullen, Medina, Frio, Dimmit, La Salle, Hidalgo, Starr, Zapata, Duval, and Burnet counties, and to conform the jurisdiction of the district and justice courts of said counties to such change," approved

February 25, 1881, be and the same is hereby repealed as far as same relates to the counties of Nueces, McMullen, and San Patricio.

Sec. 2. Said county courts be and the same are hereby reinvested with the jurisdiction, criminal and civil, which they had and exercised prior to the passage of said act diminishing the jurisdiction of said counties.

Sec. 3. All causes now pending in the district courts of said counties of Nueces, McMullen, and San Patricio, over which the county courts of those counties would have jurisdiction under the Constitution, shall be transferred to said county courts, and all causes now pending in said district court over which said district and county courts have concurrent jurisdiction shall, upon the written motion of either party thereto, filed with the clerk of said district court, be transferred to said county courts, and all causes so transferred shall be docketed in said county courts and stand for trial as appearance causes in that court.

Sec. 4. The district clerks of said counties of Nueces, McMullen, and San Patricio be and they are hereby required, within twenty days after the passage of this act, to make a full and complete transcript of all entries made upon the dockets of said district court in all causes which will be by section 3 of this act transferred from said court, and shall deliver the same and all papers of each cause to the clerks of said county courts.

Sec. 5. All laws and parts of laws in conflict with this act be and the same are hereby repealed.

Sec. 6. The crowded condition of the docket of the district court of Nueces county, and the necessity of reducing the same, creates an emergency and an imperative public necessity, requiring the constitutional rule for bills to be read on three several days to be suspended, and said rule is hereby suspended, and this act shall take effect and be in force from and after its passage, and it is so enacted.

Approved March 13, A. D. 1893.

SOUTHWEST TEXAS LUNATIC ASYLUM—AUTHORIZING SALE OR LEASE OF ARTESIAN WATER.

CHAP. 22.—[H. B. No. 591.] An act authorizing the board of managers of the Southwest Texas Lunatic Asylum, San Antonio, Texas, to sell, lease, or dispose of the water flowing from the artesian wells on the grounds belonging to said asylum.

Section 1. Be it enacted by the Legislature of the State of Texas: That the members of the board of managers of the Southwest Texas Lunatic Asylum, situated at San Antonio, Texas, be and they are hereby authorized and empowered to sell, lease, or dispose of the water belonging to the State, and flowing from any of the artesian wells on the grounds of said asylum, for such price and upon such terms and conditions as the said board may deem to be the best interest of the State: Provided, that the term of said lease shall not exceed ten years.

Sec. 2. The near approach of the close of the session of this Legislature, and the importance of having the water now going to waste from the wells of this asylum utilized to the interest and advantage of the State

creates a necessity and emergency for the suspension of the constitutional rule requiring bills to be read on three several days, and that this act take effect from and after its passage, and it is so enacted.

Approved March 13, A. D. 1893.

JUDICIAL DISTRICT—FORTY-FIRST.

CHAP. 23.—[H. B. No. 549.] An act to reorganize the forty-first judicial district, and to provide the times of holding the terms of the district courts in said district.

Section 1. Be it enacted by the Legislature of the State of Texas: That the counties of Brewster, Buchel, Foley, Pecos, Val Verde, Kinney, Edwards, Jeff Davis, and Maverick be and the same are hereby constituted the forty-first judicial district of the State of Texas.

Sec. 2. The district courts shall be held in the several counties composing the forty-first judicial district as follows: Beginning in Jeff Davis on the second Mondays before the first Mondays in March and September, and continue in session two weeks. In Brewster county the first Mondays in March and September, and continue two weeks. In Pecos county the second Mondays after the first Mondays in March and September, and continue one week. In Val Verde county the third Mondays after the first Mondays in March and September, and continue two weeks. In Kinney county the fifth Mondays after the first Mondays in March and September, and continue two weeks. In Edwards county the seventh Mondays after the first Mondays in March and September, and continue two weeks. In Maverick county the ninth Mondays after the first Mondays in March and September, and continue until all the business is disposed of.

Sec. 3. All writs and process returnable to the district courts as heretofore fixed in the several counties affected by this act, shall be as valid and binding as if no change had been made.

Sec. 4. All laws and parts of laws in conflict with this act be and the same are hereby repealed.

Sec. 5. Whereas, the dockets of the district courts in the several counties composing the district hereby created are now in such crowded condition as to prevent a speedy trial of the same unless this bill is enacted into a law, creates such an emergency and public necessity as requires the suspension of the constitutional rule requiring bills to be read on three several days, and said rule is therefore suspended, and it is enacted that this act take effect and be in force from and after its passage.

Approved March 13, A. D. 1893.

HAMILTON AND WHARTON COUNTIES—RESTORING CIVIL AND CRIMINAL JURISDICTION TO COUNTY COURTS.

CHAP. 24—[H. B. No. 279.] An act to restore to and confer upon the county courts of Hamilton and Wharton counties the civil and criminal jurisdiction heretofore belonging to said courts under the Constitution and general statutes of the State, to conform the jurisdiction of the district courts of said counties to such change, and to repeal all laws in conflict with the provisions of this act in so far as relates to Hamilton and Wharton counties.

Section 1. Be it enacted by the Legislature of the State of Texas: That the county courts of Wharton and Hamilton counties shall hereafter have exclusive original jurisdiction in civil cases where the matter in controversy shall exceed in value two hundred dollars, and shall not exceed five hundred dollars, exclusive of interest, and that they shall have concurrent jurisdiction with the district courts of said counties when the matter in controversy shall exceed five hundred dollars and not exceed one thousand dollars.

Sec. 2. Said county courts shall have appellate jurisdiction in civil cases over which justice courts have original jurisdiction when the judgment of the court appealed from or the amount in controversy shall exceed twenty dollars, and said county courts shall have power to hear and determine cases brought up from justice courts by certiorari, under the provisions of the title of the Revised Statutes relating thereto.

Sec. 3. The county judges of the said counties shall have authority, either in term time or vacation, to grant writs of mandamus, injunction, sequestration, garnishment, attachment, certiorari, supersedeas, and all other writs necessary to the enforcement of the jurisdiction of said courts, and shall have power to issue writs of habeas corpus in all cases in which the Constitution has not exclusively conferred the power on the district courts or judges thereof.

Sec. 4. Said county courts shall have jurisdiction in the forfeiture and judgment of all bonds and recognizances taken in criminal cases of which said courts have jurisdiction.

Sec. 5. Said county courts shall have exclusive original jurisdiction of all misdemeanors, except misdemeanors involving official misconduct, and except in cases in which the highest penalty of fine that may be imposed under the law may not exceed two hundred dollars, and said courts shall also have appellate jurisdiction in criminal cases of which justices of the peace and other inferior tribunals of said counties have original jurisdiction.

Sec. 6. The district courts of Wharton and Hamilton counties shall no longer have jurisdiction of cases of which the county courts of said counties, by the provisions of this act, have exclusive original or appellate jurisdiction, and it shall be the duty of the clerks of the district courts of said counties, within thirty days from the passage of this act, to make a full and complete transcript of all orders on the docket in cases now pending before said district courts, of which cases, by the terms of this act, exclusive jurisdiction is given to said county courts, and they shall deliver said transcript, together with the original papers and certified bill of costs to the clerks of said county courts, and said county clerks shall enter said case or cases on the docket for trial by said county courts.

Sec. 7. The county courts of said counties shall hereafter hold their regular terms for civil and criminal business as provided in the Constitution and general laws of the State, and process heretofore issued from the districts courts of said counties in cases to be transferred under this act to the county courts of Wharton and Hamilton counties shall be returnable to the first term, respectively, held by said county courts after this act shall go into effect, and all cases transferred shall be entered as appearance cases upon the dockets of said county courts.

Sec. 8. The county courts of Wharton and Hamilton counties shall have, as now, the general jurisdiction appertaining to probate courts, for the probate of wills, appointment of guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards, and for the issuance of letters testamentary and [of] administration, settlement of accounts of administrators and guardians, and the settlement and distribution of decedents' estates, and the apprenticeship of minors, and all other necessary powers conferred by law on courts of probate.

Sec. 9. That all laws and parts of laws in conflict with the provisions of this act, in so far as relates to Wharton and Hamilton counties, be and the same are hereby repealed.

Sec. 10. Whereas, the county courts of Wharton and Hamilton counties are without the jurisdiction necessary for the just and proper administration of the laws, creates such an emergency and public necessity as requires the suspension of the constitutional rule requiring bills to be read on three several days; said rule is therefore suspended; and it is enacted that this act shall take effect and be in force from and after its passage.

Approved March 13, A. D. 1893.

JUDICIAL DISTRICTS—SECOND AND NINTH.

CHAP. 25.—[H. B. No. 564.] An act to amend an act approved July 4, 1887, and the amendatory act thereto, approved March 31, 1891, and to change the times of holding the district courts in the second and ninth judicial districts of the State of Texas, and to take Angelina county from the ninth and attach same to the second judicial district, and to fix the time of holding courts in said districts, and to provide for the return of all writs and process returnable to the district courts of said counties affected by this act, that have heretofore been issued by said courts, and that may hereafter be issued before this act takes effect, and made returnable to the terms of said courts as now fixed by law, and to make the same as valid and binding as if no change had been made, and to repeal all laws and parts of laws in conflict herewith.

Section 1. Be it enacted by the Legislature of the State of Texas: That section 9, acts of the regular session of the Twentieth Legislature, and an amendatory act thereto, passed at the regular session of the Twenty-second Legislature of the State of Texas, approved March 31, 1891, be so amended as to hereafter read as follows:

Sec. 2. The second judicial district shall be composed of the counties of Angelina, Cherokee, Nacogdoches, Sabine, San Augustine, and Shelby, and the terms of the district courts shall be held therein as follows: In the county of Shelby on the first Monday in January and second Monday in July, and may continue in session five weeks. In the county of Sabine on the fifth Mondays after the first Monday in January and the

second Monday in July, and may continue in session two weeks. In the county of San Augustine on the seventh Mondays after the first Monday in January and the second Monday in July, and may continue in session three weeks. In the county of Nacogdoches on the tenth Mondays after the first Monday in January and the second Monday in July, and may continue in session four weeks. In the county of Angelina on the fourteenth Mondays after the first Monday in January and the second Monday in July, and may continue in session four weeks. In the county of Cherokee on the eighteenth Mondays after the first Monday in January and the second Monday in July, and may continue in session until the business is disposed of.

Sec. 3. The ninth judicial district shall be composed of the counties of Chambers, Hardin, Liberty, Polk and San Jacinto, and the district courts therein shall be held as follows: In the county of Polk on the second Mondays in January and July, and may continue in session five weeks. In the county of Liberty on the sixth Mondays after the second Mondays in January and July, and may continue in session four weeks. In the county of Chambers on the tenth Mondays after the second Mondays in January and July, and may continue in session two weeks. In the county of Hardin on the twelfth Mondays after the second Mondays in January and July, and may continue in session three weeks. In the county of San Jacinto on the fifteenth Mondays after the first Mondays in January and July, and may continue in session until the business is disposed of.

Sec. 4. That all writs and process returnable to the district courts as heretofore fixed in the counties affected by this act, and all such writs and process that may hereafter be issued before this act shall take effect, and made returnable to the terms of said district courts as now fixed by law, shall be valid and binding as if no change had been made.

Sec. 5. Provided, that this act shall take effect and be in force from and after July 1, 1893.

Sec. 6. That all laws and parts of laws in conflict with this act be and the same are hereby repealed.

Sec. 7. The near approach of the end of the present session of the Legislature and the crowded condition of the calendar creates an emergency that requires the suspension of the constitutional rule requiring bills to be read on three several days in each house, and the same is so suspended, and the great need of changing the times for holding the courts mentioned in this act creates an imperative public necessity that this bill be put upon its final passage at once, and it is so enacted.

Approved March 13, A. D. 1893.

THEFT—CATTLE, HOG, SHEEP, OR GOAT—A FELONY.

CHAP. 26.—[H. B. No. 26.] An act to amend articles 747 and 748, chapter 11, title 17, of the Penal Code.

Section 1. Be it enacted by the Legislature of the State of Texas: That articles 747 and 748, title 17, chapter 11, of the Penal Code, be so amended as to hereafter read as follows:

Art. 747. If any person shall steal any cattle or hog, he shall be punished by confinement in the State penitentiary for not less than two nor more than four years.

Art. 748. If any person shall steal any sheep or goat, he shall, if the value of the property stolen be twenty dollars or over, be punished by confinement in the State penitentiary not less than two nor more than four years. If the property be under twenty dollars in value, he shall be punished by imprisonment in the county jail not exceeding six months, during which time the prisoner may be put to hard labor, and by fine not exceeding two hundred and fifty dollars, or such imprisonment without fine.

Approved March 15, A. D. 1893.

JUDICIAL DISTRICT—TWENTY-THIRD.

CHAP. 27.—[H. B. No. 446.] An act to amend section 23 of chapter 63 of an act passed at the regular session of the Twenty-second Legislature, approved April 13, 1891, entitled "An act to amend section 23 of an act entitled an act to redistrict the State into judicial districts and fix the times of holding court therein, and to provide for the election of judges and district attorneys in said districts at the next general election, to be held on the first Tuesday after the first Monday in November, 1884," and to change the time of holding the terms of the district court in Brazoria county, and conform the issuance, service, and return of process from said court to such change.

Section 1. Be it enacted by the Legislature of the State of Texas: That section 23 of the above entitled act be so amended as to hereafter read as follows:

Sec. 23. The twenty-third judicial district of Texas shall be composed of the counties of Brazoria, Jackson, Fort Bend, Matagorda, Waller, and Wharton, and the district court shall be held therein as follows: In the county of Waller on the first Mondays in February and August, and may continue in session three weeks. In the county of Fort Bend on the third Mondays after the first Mondays in March and September, and may continue in session four weeks. In the county of Wharton on the seventh Mondays after the first Mondays in March and September, and may continue in session three weeks. In the county of Jackson on the tenth Mondays after the first Mondays in March and September, and may continue in session two weeks. In the county of Matagorda on the thirteenth Mondays after the first Mondays in March and September, and may continue in session two weeks. In the county of Brazoria there shall be held two terms of said court in each year, the first term to be held on the first Monday in January of each year, and may continue in session until the last Saturday in said month, and the second term to be

held on the fifteenth Monday after the first Monday in March of each year, and may continue in session until the last Saturday in July following, and all process from said court shall be issued, served, and returned in conformity with the change herein made.

Sec. 2. That all laws and parts of laws in conflict herewith be and the same are hereby repealed.

Sec. 3. That whereas it is probable that the present session of the Legislature of the State of Texas will continue beyond the regular term of sixty days, in which event the provisions of this act will tend to cause confusion and uncertainty as to the issuance, service, and return of process to the June term, 1893, of said court in Brazoria county; and whereas the fact that another regular session of the Legislature will not be held for two years, and the further fact that under existing law the December term of said court convenes during the Christmas holidays, thereby retarding the dispatch of business in said court, and causing great inconvenience to the citizens of said county, creates an emergency and imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved March 15, A. D. 1893.

JUDICIAL DISTRICT—THIRTEENTH.

CHAP. 28.—[S. B. No. 103.] An act to prescribe the times for holding the terms of the district court in the thirteenth judicial district.

Section 1. Be it enacted by the Legislature of the State of Texas: That the thirteenth judicial district of the State shall be composed of the counties of Limestone, Freestone, and Navarro, and the district courts shall be begun and held therein as follows: In the county of Limestone on the first Monday in January and on the first Monday in August, and may continue in session five weeks each term. In the county of Freestone on the fifth Monday after the first Monday in January and on the fifth Monday after the first Monday in August, and may continue in session four weeks each term. In the county of Navarro on the ninth Monday after the first Monday in January, and may continue in session seven weeks, and on the first Monday in June, and may continue in session seven weeks, and on the ninth Monday after the first Monday in August, and may continue in session six weeks.

Sec. 2. That all process heretofore issued under the law as it now exists be and the same is hereby made returnable to the terms as fixed herein.

Sec. 3. The crowded condition of the dockets in Navarro county creates an emergency that this law should take effect and be in force on and after the first Monday in June, 1893, and it is so enacted, and the same fact creates an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and said rule is so suspended.

Approved March 15, A. D. 1893.

JUDICIAL DISTRICT—THIRTY-EIGHTH.

CHAP. 29.—[S. H. B. No. 161.] An act to amend section 38, chapter 141, of an act passed at the regular session of the Twenty-first Legislature of the State of Texas, approved March 30, 1889, entitled "An act to amend chapter 61, an act entitled an act to amend section 38 of an act entitled an act to redistrict the State into judicial districts and fix the times for holding court therein, and to provide for the election of judges and district attorneys in said districts at the next general election, to be held on the first Tuesday after the first Monday in November, 1884, approved April 9, 1883, approved March 25, 1887," granting an extension of time for the holding of the district court of Comal county.

Section 1. Be it enacted by the Legislature of the State of Texas: That section 38 of chapter 141 of an act passed at the regular session of the Twenty-first Legislature of the State of Texas, approved March 30, 1889, entitled "An act to amend chapter 61, an act entitled an act to amend section 38 of an act entitled an act to redistrict the State into judicial districts and fix the times for holding court therein, and to provide for the election of judges and district attorneys in said districts at the next general election to be held on the first Tuesday after the first Monday in November, 1884, approved April 9, 1883, approved March 25, 1887," be so amended as to hereafter read as follows:

Sec. 38. The thirty-eighth judicial district shall be composed of the counties of Uvalde, Comal, Kendall, Kerr, Bandera, and Medina, and the district courts therein shall be held as follows: In the county of Bandera on the fifth Monday after the first Mondays in March and September, and may continue in session two weeks. In the county of Kendall on the seventh Monday after the first Mondays in March and September, and may continue in session two weeks. In the county of Kerr on the ninth Monday after the first Mondays in March and September, and may continue in session two weeks. In the county of Comal on the eleventh Monday after the first Mondays in March and September, and may continue in session three weeks. In the county of Medina on the fourteenth Mondays after the first Mondays in March and September, and may continue in session four weeks. In the county of Uvalde on the eighteenth Monday after the first Mondays in March and September, and may continue in session until the business is disposed of: Provided, that the next regular session of the district court of Uvalde county, to be holden on the second Monday after the first Monday in March, 1893, shall be held at its regular time, but each session thereafter shall be held in accordance with the provisions of this act.

Sec. 2. All laws and parts of laws in conflict with this act are hereby repealed.

Sec. 3. The crowded condition of the docket of the district court of Comal county, and this fact together in connection with the increasing business in the district court of said Comal county, creates an imperative public necessity which justifies the suspension of the constitutional rule requiring bills to be read on three several days in both houses, and the same is hereby suspended, and that this bill become a law and take effect from and after its passage, and it is so enacted.

Approved March 15, A. D. 1893.

DIRECT TAX—MODE OF DISBURSEMENT.

CHAP. 30.—[S. H. B. No. 67.] An act to provide for the prompt, speedy, and economical disbursement of the direct tax refunded to the State of Texas, under the act of the Fifty-first Congress, approved March 2, 1891.

Section 1. Be it enacted by the Legislature of the State of Texas: That all claims against the direct tax refunded to the State of Texas in trust for those from whom the same was collected, or their legal representatives, under the act of the Fifty-first Congress, approved March 2, 1891, shall be filed under the direction of the Governor, who shall cause a claim register to be kept by the Comptroller of Public Accounts, showing the county in which and by whom the tax was paid; by whom the claim for reimbursement is made; the number of the claim and date of filing; the award of the Comptroller; the name of the payee; the number, date, and amount of the warrant. All claims now on file with the auditing board, created by the joint resolution of April 11, 1892, shall be filed as of the date of the taking effect of this act.

Sec. 2. The Comptroller of Public Accounts shall audit and pass upon the claims against the direct tax fund which may be made by those who paid the tax, or their legal representatives.

Sec. 3. The Comptroller shall allow such claims and draw his warrant in the name of the claimant, his surviving wife, or his or her legal representative, if any, on the State Treasurer in payment of same when the genuineness thereof has been established in either of the following methods: First: When satisfactory proof has been made before him that the party applying is entitled thereto; and he is hereby authorized to administer such oaths as he may require in regard to the matter. Second: He shall, as soon as practicable, furnish a list of those who paid the tax and amounts paid to the county judge of each county wherein the tax was paid, to be filed in his office for inspection by those interested. In the manner to be designated by the comptroller, the county judge shall give notice of the receipt of the list. He shall at any time hear evidence as to the right of those making claim, and if the proof be satisfactory, he shall, under the seal of the county court, deliver to the claimant a certificate stating how the claim was established. In case where neither of the above rules can be applied, the Comptroller may prescribe the rule.

Sec. 4. The county judge shall be allowed the sum of 25 cents for each certificate, to be paid by the applicant.

Sec. 5. All laws and parts of laws in conflict with this act are hereby repealed.

Sec. 6. That the people may receive the moneys due them as soon as possible creates an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, that this act take effect and be in force from and after its passage, and it is so enacted.

Approved March 15, A. D. 1893.

ATTORNEY FEES—FIXING SAME IN SUITS FOR RECOVERY OF INTEREST OR TO FORFEIT SCHOOL LAND.

CHAP. 31.—[S. B. No. 130.] An act to fix the fees of district and county attorneys, and attorneys ad litem, in suits instituted by the State for the recovery of interest due the school fund, or to forfeit school land for nonpayment of purchase money, and to provide for the payment thereof.

Whereas, under the acts of 1879 and 1881, for the sale of public school lands, no provision was made for the forfeiture of said lands on account of nonpayment of interest due on the purchase money, except by suits in the State district courts; and

Whereas, a large quantity of said lands were sold under said acts, and the interest and principal of the purchase money on the purchase contracts for said lands are due and unpaid; and

Whereas, certain suits for the recovery of said money, under competent authority, have been instituted in behalf of the State, and it is necessary to institute others to recover said moneys; and

Whereas, There is now no provision of law fixing fees for attorneys who represent the State in these suits, and attorneys appointed by the court to represent the defendants:

Section 1. Therefore be it enacted by the Legislature of the State of Texas: That district and county attorneys who have represented or may hereafter represent the State in suits for the recovery of interest and purchase money due the State on account of sales of school lands, made under the acts of 1879 and 1881, or for the forfeiture of said lands on account of non-payment of said interest and purchase money, shall be allowed a fee of ten dollars for each of such cases in which the State recovers judgment; said fees to be approved by the judge who tried the case or his successor in office, and certified by the clerk of the trial court, and when so approved and certified shall be paid out of any moneys in the treasury not otherwise appropriated: Provided, that in cases where suits are filed by one district or county attorney and judgment obtained by his successor in office, the fee shall be equally divided between them.

Sec. 2. That a fee of five dollars for every suit heretofore or hereafter brought be allowed attorneys appointed by the court to represent the defendant in all cases where the State recovered judgment and where the costs can not be made out of the defendant; said fee to be paid by the State upon the presentation of an account allowed by the district court trying said case, stating the number and style of the suit and that the State recovered therein, that the attorney was appointed and represented the defendant therein, and that the costs can not be recovered out of said defendant.

Sec. 3. Whereas many suits for the collection of said interest due said school fund or the forfeiture of said school lands have been brought by the direction of the proper authorities, and are now pending, and there is no provision for paying the attorneys rendering services to the State in maintaining said suits; and whereas the maintenance of said suits is necessary for the assertion of the right of the State and her free school fund in valuable properties belonging thereto, it is declared that an emergency and an imperative public necessity exist for the suspension of

the rule requiring that bills to be read upon three several days, and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved March 16, A. D. 1893.

SCHOOL LANDS—EXTENDING TIME FOR PAYMENT OF INTEREST.

CHAP. 32.—[S. B. No. 88.] An act to amend section 11 of an act approved April 28, 1891, entitled "An act to amend sections 11, 14, and 15 of an act to amend sections 5, 8, 11, 13, 14, 15, and 22, chapter 99, of an act entitled an act to provide for the sale of all lands heretofore or hereafter surveyed and set apart for the benefit of the public free schools, the university, and the several asylums, and the lease of such lands and of the public lands of the State, and to prevent the free use, occupancy, unlawful enclosure, or unlawful appropriation of such lands, and to prescribe and provide adequate penalties therefor, approved April 1, 1887, approved April 8, 1889."

Section 1. Be it enacted by the Legislature of the State of Texas: That an act approved April 28, 1891, entitled "An act to amend sections 11, 14, and 15 of an act to amend sections 5, 8, 11, 13, 14, 15, and 22, chapter 99, of an act entitled an act to provide for the sale of all lands heretofore or hereafter surveyed and set apart for the benefit of the public free schools, the university, and the several asylums, and the lease of such lands and of the public lands of the State, and to prevent the free use, occupancy, unlawful enclosure, or unlawful appropriation of such lands, and to prescribe and provide adequate penalties therefor, approved April 1, 1887, approved April 8, 1889," be so amended as hereafter to read as follows, to-wit:

Section 11. If, upon the first day of November of any year, the interest due for the year next preceding on any obligation remains unpaid, the Commissioner of the General Land Office shall endorse on such obligation "Land forfeited," and shall cause an entry to that effect to be made on the account kept with the purchaser, and thereupon said land shall be forfeited to the State, without the necessity of re-entry or judicial ascertainment, and shall revert to the particular fund to which it originally belonged, and be resold under the provisions of this act, or any future law: Provided, if any purchaser shall die, his heirs or legal representatives shall have one year in which to make payment after the first day of November next after such death; and if any purchaser shall fail to reside upon and improve in good faith the land purchased by him, he shall forfeit said land and payment thereon made, to the State, in the same manner as for nonpayment of interest, and such land shall again be for sale, as if no such sale or forfeiture had occurred; or, if he shall fail to make the proof of occupancy within the time and in the manner prescribed by the regulations of the Commissioner of the General Land Office, as provided for in section 9 of this act, he shall in like manner forfeit the land and all payments thereon to the State: Provided further, that nothing in this section contained shall be construed to inhibit the State from instituting such legal proceedings as may be necessary to enforce such forfeiture, or to protect any other right to such land; which suits may be instituted by the Attorney General under the direction of the Governor,

in the proper court of the county in which the land lies: Provided, this section shall be printed on the back of the receipt.

Sec. 2. The fact that an extensive and destructive drouth prevailed throughout west and northwest Texas during the year 1892, amounting to a public calamity, and rendering it impossible for many of the purchasers of said lands to pay their annual interest for said year within the time prescribed by law, and that unless said interest is paid on or before the first of April, 1893, their lands will be forfeited, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved March 20, A. D. 1893.

PLEADINGS—ANSWER—WHEN FILED.

CHAP. 33.—[H. B. No. 14.] An act to amend article 1263 of the Revised Civil Statutes.

Section 1. Be it enacted by the Legislature of the State of Texas: That article 1263 of the Revised Civil Statutes be amended so as to hereafter read as follows:

Article 1263. In all cases in which the citation has been personally served at least ten days before the first day of the term to which it is returnable, exclusive of the day of service and return, the answer of the defendant shall be filed in the county and district courts on or before the second day of the return term and before the call of the appearance docket on said second day.

Sec. 2. Whereas there is now a conflict between articles 1263 and 1280, and the crowded condition of the calendar, and the large number of bills now pending, and the near approach of the [end of the] present session creates an emergency, and a public necessity exists that the constitutional rule requiring bills to be read on three several days be suspended and that this bill take effect from and after its passage, and it is so enacted.

Approved March 20, A. D. 1893.

ANGELINA, SHELBY AND COKE COUNTIES—RESTORING CIVIL AND CRIMINAL JURISDICTION TO THE COUNTY COURTS.

CHAP. 34. —[H. B. No. 433.] An act to restore to and confer upon the county courts of Angelina, Shelby, and Coke counties the civil and criminal jurisdiction heretofore belonging to said courts under the Constitution and general laws of the State, and to conform the jurisdiction of the district courts of said counties to such change, and to give said county courts concurrent jurisdiction with justices of the peace and other inferior courts of said counties, and to repeal all laws and parts of laws in conflict with this act.

Section 1. Be it enacted by the Legislature of the State of Texas: That the county courts of Angelina, Shelby, and Coke counties shall hereafter have exclusive original jurisdiction in civil cases wherein the matter in controversy shall exceed in value two hundred dollars, and not exceed five hundred dollars, and concurrent jurisdiction with the district courts

of said counties when the matter in controversy shall exceed five hundred dollars, and not exceed one thousand dollars, exclusive of interest, except the misdemeanors involving official misconduct, and except cases in which the highest penalty of fine that may be imposed under the law may not exceed two hundred dollars, and have original jurisdiction of all misdemeanors, except the misdemeanors involving official misconduct, and shall have concurrent jurisdiction with that of justices of the peace and other inferior tribunals of said counties, when the matter in controversy exceeds twenty dollars; and said courts shall have appellate jurisdiction in all civil and criminal cases in which justices of the peace and other inferior tribunals of said counties have original jurisdiction.

Sec. 2. The county courts of said counties shall have authority, either in term time or vacation, to grant writs of mandamus, injunction, sequestration, garnishment, attachment, certiorari, supersedeas, and all other writs necessary to the enforcement of the jurisdiction of said courts, and shall have power to issue writs of habeas corpus in all cases in which the Constitution has not exclusively conferred the power on the district court or judge thereof.

Sec. 3. Said county courts shall also have power to hear and determine all motions against sheriffs and other officers of the court for failure to pay over moneys collected under the process of said courts, or other defalcation of duty in connection with such process, and shall have power to punish, by fine not exceeding one hundred dollars and by imprisonment not exceeding three days, any person guilty of contempt of said courts, and all other powers and jurisdiction conferred on county courts by the Constitution of the State.

Sec. 4. The district courts of said counties of Angelina, Shelby, and Coke shall no longer have jurisdiction of misdemeanors except misdemeanors involving official misconduct, and shall no longer have jurisdiction of cases of which the county courts of said counties, by the provisions of this act, have the original or appellate jurisdiction; and it shall be the duty of the district clerks of said counties, within thirty days after this act shall take effect, to make full and complete transcripts of all orders on the civil and criminal dockets in cases then pending before the district courts of said counties, of which cases, by the provisions of this act, original and appellate jurisdiction is given to said county courts, and to deliver said transcripts, together with the original papers and a certified bill of costs in each case, to the county clerks of said counties, and said county clerks shall take charge of said transcripts and papers, file the same, and enter said cases on their respective dockets for trial by said courts.

Sec. 5. The county courts of said counties shall hereafter hold their regular terms for civil and criminal business as provided in the Constitution and general laws of the State, or at such time as the commissioners courts of said counties may authorize by a written order spread upon the minutes of said court, and all process heretofore issued from the district courts of said counties in cases transferred under this act to the county courts shall be returnable to the first term of the county court, and all civil cases transferred shall be entered as appearance cases upon the docket of said court.

Sec. 6. The county courts of said Angelina, Shelby, and Coke counties shall have, as now, the general jurisdiction of probate courts, for the probate of wills, appointment of guardians of minors, idiots, lunatics,

persons non compos mentis and common drunkards, and for the issuance of letters testamentary and [of] administration, settlement of accounts of administrators and guardians, and the settlement of distribution of decedents' estates, and the apprenticeship of minors, and all other necessary powers conferred by law on courts of probate.

Sec. 7. That all laws and parts of laws in conflict with the provisions of this act, in so far as it relates to Angelina, Shelby, and Coke counties, be and the same are hereby repealed.

Sec. 8. Whereas, the county courts of Angelina, Shelby, and Coke counties are without the jurisdiction necessary for the just and proper administration of the laws, creates such an emergency and public necessity as requires the suspension of the constitutional rule requiring bills to be read on three several days, and said rule is hereby suspended, and this act shall take effect and be in force from and after its passage, and it is so enacted.

Approved March 21, A. D. 1893.

JUDICIAL DISTRICTS—FIFTEENTH AND FORTIETH.

CHAP. 35.—[H. B. No. 265.] An act to be entitled an act to reorganize the fifteenth judicial district and the fortieth judicial district, and to amend chapter 67, section 15, of the general laws of Texas, approved April 9, 1883, redistricting the State for judicial purposes, and to amend section 2 of chapter 58 of the general laws of Texas, approved March 27, 1885, creating the fortieth judicial district, and to repeal all laws in conflict with this act.

Section 1. Be it enacted by the Legislature of the State of Texas: That the fifteenth judicial district shall be composed of the county of Grayson, and the terms of court for said district shall be held therein each year as follows: The first term shall begin on the first Monday in January of each year, and continue until the last Saturday in March. The second term shall begin on the first Monday in April, and may continue until the second Saturday in July, or until the business is disposed of. The third term shall begin on the first Monday in September, and continue until the third Saturday in December. The provisions of this act shall not apply to the term of the district court for Grayson county beginning on the second Monday of March, 1893, but thereafter the terms of the district court for said county shall conform to the provisions of this act.

Sec. 2. The fortieth judicial district shall be composed of the counties of Collin, Ellis, Kaufman, and Rockwall, and the terms of the district court within and for said counties shall be held each year as follows: Beginning in Kaufman county on the first Monday in September of each year, and lasting five weeks; beginning in Collin county on the sixth Monday after the first Monday in September, and lasting six weeks; beginning in Rockwall county on the fourth Monday in November, and lasting two weeks; beginning in Ellis county on the second Monday in December, and lasting seven weeks; beginning in Kaufman county on the first Monday in February of each year, and lasting five weeks; beginning in Collin county on the sixth Monday after the first Monday in February, and lasting six weeks; beginning in Rockwall county on the first Monday

in May, and lasting two weeks; beginning in Ellis county on the third Monday in May, and lasting seven weeks.

Sec. 3. All writs, process, and bonds, civil and criminal, which may be issued or executed up to the time this act takes effect, by or from the district courts of the several counties named in this act, or under the order of said courts, and made returnable to the terms of said courts as they are now fixed by law, shall be returnable to the next ensuing terms of said courts in each county as they are prescribed in this act; and all such writs, process, and bonds above mentioned are hereby legalized and validated to all intents and purposes as if the same had been returnable to the terms of said courts as the terms hereof are herein prescribed.

Sec. 4. The judges of the district courts now in office and residing within the said above named fifteenth and fortieth judicial districts, as herein defined, shall hold the several terms of the courts in the counties herein named.

Sec. 5. All laws and parts of laws heretofore enacted in conflict with this act are hereby repealed.

Sec. 6. The near approach of the end of this session of the Legislature, and the crowded condition of the docket in Grayson county district court, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and it is so suspended, and that this act go into effect from and after its passage, and it is so enacted.

Approved March 21, A. D. 1893.

JUDICIAL DISTRICTS—FIFTEENTH AND FORTIETH. (Amending Chap. 35 Laws 1893.)

CHAP. 36.—[H. B. No. 649.] An act to amend section 2 of "An act to be entitled an act to reorganize the fifteenth judicial district and the fortieth judicial district, and to amend chapter 67, section 15, of the general laws of Texas, approved April 9, 1883, redistricting the State for judicial purposes, and to amend section 2 of chapter 58 of the general laws of Texas, approved March 27, 1885, creating the fortieth judicial district, and to repeal all laws in conflict with this act," passed at the present session of the Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas: That section 2 of the act recited above be so amended as to hereafter read as follows:

Sec. 2. The fortieth judicial district shall be composed of the counties of Collin, Ellis, Kaufman, and Rockwall, and the terms of the district court within and for said counties shall be held each year as follows: Beginning in Kaufman county on the first Monday in September, and lasting five weeks; beginning in Collin county on the sixth Monday after the first Monday in September, and lasting six weeks; beginning in Rockwall county on the fourth Monday in November, and lasting two weeks; beginning in Ellis county on the second Monday in December, and lasting seven weeks; beginning in Kaufman county on the first Monday in February, and lasting five weeks; beginning in Collin county on the sixth Monday after the first [Monday] in February, and lasting six weeks; beginning in Rockwall county on the first Monday in May, and lasting two

weeks; beginning in Ellis county on the third Monday in May, and lasting seven weeks: Provided, that the provisions of this act shall not apply to the term of the district court heretofore begun in Ellis county on the first Monday in March, 1893, and the first term of said court in said county under this act shall be that beginning on the second Monday in December, 1893, and the first regular term of the court held in Collin county under this act shall be begun on the sixth Monday after the first Monday in September, 1893.

Sec. 2. The fact that the operation of the act heretofore passed will probably interfere with the session of the court now in progress, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and said rule is hereby suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved March 21, A. D. 1893.

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McCULLOCH COUNTY—DIMINISHING THE CIVIL AND CRIMINAL JURISDICTION OF COUNTY COURT.

CHAP. 37.—[H. B. No. 441.] An act to diminish the civil and criminal jurisdiction of the county court of McCulloch county.

Section 1. Be it enacted by the Legislature of the State of Texas: That the county court of McCulloch county shall have and exercise the general jurisdiction of probate courts; shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards, grant letters testamentary and of administration, settle accounts of executors, administrators, and guardians, transacting all business appertaining to the estates of deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlement, partition, and distribution, and settlement of estates of deceased persons, and to apprentice minors, as provided by law, and issue writs necessary to the enforcement of said jurisdiction, to punish contempt under such provisions as are or may be provided by general law governing county courts throughout the State, but the said county court of McCulloch county shall have no other civil or criminal jurisdiction whatever.

Sec. 2. The district court of McCulloch county shall have and exercise jurisdiction in all civil and criminal matters and causes over which, by the laws of this State, the county court of said county would have jurisdiction, except as provided in section one of this act, and all causes, other than probate matters, and such as are provided by section one of this act, be and the same are hereby transferred to the district court of McCulloch county, and all writs and process relating to any civil or criminal matters not included in the subject matter of jurisdiction prescribed in section one of this act, issued by or out of said court of McCulloch county, be and the same are hereby made returnable to the next term of the district court of said county.

Sec. 3. The county clerk of the court of McCulloch county is hereby required, within thirty days after the passage of this act, to make a fair and complete transcript of all entries upon the civil and criminal docket here-

tofore made in cases where [which] by section two are required to be transferred to the district court of said county, and deliver the same to the district clerk of said county, together with all the papers to such causes pertaining, and all such causes shall be immediately docketed by said district clerk, and such civil causes so transferred shall stand on the docket of said court as appearance cases for the next succeeding term, and all criminal cases shall be docketed and disposed of in the same manner as if the same had originally been triable in said district court.

Sec. 4. This act shall not be construed to in any manner affect judgment heretofore rendered by said county court of McCulloch county pertaining to matters and causes by which [which by] section 2 of this act are transferred to the district court of said county, but the county clerk of said county shall issue all executions and orders of sale as the judgment in such cases require, and such executions and orders of sale and proceedings thereunder shall be as valid and binding to all intents and purposes as though the change had not been made as provided in section 2 of this act.

Sec. 5. All laws and parts of laws in conflict with this act are hereby repealed.

Sec. 6. The near approach of the close of the present session of the Legislature and the great need of a change in the jurisdiction of the county court of McCulloch county creates an emergency and imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved March 24, A. D. 1893.

LANDS—UNRESTRICTED OWNERSHIP—PERPETUITIES.

CHAP. 38.—[S. B. No. 4.] An act to define perpetuities and prevent land monopolies, to limit and regulate the use and ownership of lands by corporations, and to provide for the alienation, forfeiture, and escheat of lands held in violation of the laws of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas: That the unrestricted ownership of lands in this State by private corporations is a perpetuity and is hereby prohibited.

Sec. 2. That no private corporation heretofore or hereafter chartered or created whose main purpose of business is the acquisition or ownership of land by purchase, lease, or otherwise, shall hereafter be permitted to acquire any land within this State by purchase, lease, or otherwise.

Sec. 3. That all private corporations whose main purpose or business is the acquisition or ownership, by purchase, lease, or otherwise, of lands in this State, shall, within fifteen years from the time this act takes effect, make an actual bona fide sale of all lands, or interest therein acquired, before this act takes effect, and shall within said fifteen years, by proper deed, convey in good faith all their right and title to said land. And lands acquired by corporations in payment of debts due such corporation shall be sold and conveyed as herein provided within fifteen years from the date of the acquisition of such land.

Sec. 4. That all private corporations authorized by the laws of Texas, as provided in chapter 101, article 566, acts of 1891, Twenty-second Legislature, to do business in this State, whose main purpose is not the acquisition or ownership of lands, as mentioned in the preceding sections, which have heretofore or may hereafter acquire, by lease, purchase, or otherwise, more land than is necessary to enable them to carry on their business, shall, within fifteen years from the time this act takes effect, or the date said land may be hereafter acquired in good faith sell and convey in fee simple all lands so acquired, and which are not necessary for the transaction of their business. And no private corporation shall be permitted to purchase any land under the provisions of this and the preceding sections unless the lands so purchased are necessary to enable such corporation to do business in this State, or except where such land is purchased in due course of business to secure the payment of debt: Provided, that nothing in this law shall be construed to prohibit the lease, purchase, sale, or subdivision of lands within incorporated towns, cities, or villages, and the suburbs of such towns, cities, and villages, within two miles from the limits of said incorporation in any direction.

Sec. 5. All corporations holding lands contrary to the provisions of this act shall hold the same subject to the forfeiture and escheat proceedings, and it shall be the duty of the Attorney General, or other attorney appointed by the Governor for that purpose, when he is informed or has reason to believe that any corporation is holding lands in violation of this act, to institute suit in the name of the State of Texas, in the district court of Travis county, or in the district court of any county in Texas where such corporation may have an agent, or in any county where any part of the land may be situated, against such corporation, as is provided in title 36, in the Revised Civil Statutes of Texas, for the escheat of estates of deceased persons dying without devise thereof and having no heirs.

Sec. 6. If it shall be determined upon the trial of said suit that lands are held contrary to this act, the court trying said cause shall enter judgment condemning such lands and ordering them to be sold as under execution. The proceeds of such sale to be applied, first, to the payment of costs of such suit, and balance to be paid into the State treasury, subject to be paid to the stockholders, or persons entitled to receive the same as owners, upon proper proof made within twelve months from date of sale, and if the legal representatives of such corporation fail to claim the balance of money realized on sale of said land, then it shall escheat absolutely to the State and be applied to the available school fund of the State of Texas. The court trying said cause shall allow the attorney representing the State a reasonable fee, to be taxed as cost in the suit, but in no case shall the State be liable for costs or fees unless it is successful in said suit.

Sec. 7. That all laws in conflict herewith be and the same are hereby repealed.

Approved March 24, A. D. 1893.

BUTCHERS AND SLAUGHTERERS— BONDS.

CHAP. 39.—[H. B. No. 151.] An act to amend chapter 75 of the Acts of the Twenty-first Legislature of Texas, approved April 6, 1889, entitled "An act to require butchers and slaughterers of cattle to give bond, and to prescribe penalties for the violation of the conditions of the same, and to prevent unlawful slaughtering and selling cattle," as amended by the Twenty-second Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas: That chapter 75 of the Acts of the Twenty-first Legislature, approved April 6, 1889, be so amended as to hereafter read as follows:

Sec. 2. That every person, before he shall set up and carry on the trade or occupation of a butcher or slaughterer of cattle in the State of Texas, shall file a bond, to be approved by the county judge of the county in which he desires to carry on the business, in a sum not less than two hundred dollars nor more than thousand dollars, payable to the State of Texas, conditioned that he shall keep a true and faithful record, in a book kept for that purpose, of all cattle purchased or slaughtered by him, with a description of the animal, including marks, brands, age, color, weight, and from whom purchased, and the date thereof. That he will have the hide and ears of such animal inspected by the inspector, or some magistrate of the county, within twenty days after it is slaughtered, and that he will not purchase any cattle that has been slaughtered by another unless the hide and ears of such slaughtered animal accompany said animal offered for sale, and that he will not purchase any animal that has been slaughtered by another when the ear marks, or brands on the hide accompanying such animal, when offered for sale, have been changed, mutilated, or destroyed.

Sec. 3. Every person who shall carry on the business of butcher or slaughterer of animals without having filed with the clerk of the county court of the county in which he conducts such business the bond provided for in section 2 of this act, shall be fined in any sum not less than five dollars nor more than two hundred dollars.

Sec. 4. Every person who shall carry on the business of butcher or slaughterer of animals and shall fail to keep a true and faithful record, in a book kept for the purpose, [of] all cattle purchased and slaughtered by him, together with a description of each animal, including mark, brand, age, color, weight, and from whom purchased, and the date of purchase, or shall fail to have the hide and ears of such animal or animals inspected by the inspector or some magistrate, within twenty days after such animal is slaughtered, shall be fined in any sum not less than twenty dollars nor more than two hundred dollars.

Sec. 5. Any person engaged in butchering and slaughtering cattle and [who] shall purchase any cattle that have been slaughtered by another without the hide and ears of such animal accompanying the same, or shall purchase any animal that has been slaughtered by another when the ear mark or brand on the hide accompanying the same, when offered for sale, have been changed, mutilated, or destroyed, shall be fined in any sum not less than fifty dollars nor more than two hundred dollars.

Sec. 6. The record provided for in section 4 of this act shall be open to inspection to all parties, and any butcher refusing to permit such in-

spection at any reasonable hour shall be fined in any sum not exceeding twenty-five dollars.

Sec. 7. In addition to the criminal prosecutions that may be brought under this act, it is the duty of the county attorney to bring a civil action against any butcher or slaughterer of animals for any violation of the terms of the bond prescribed in section 2 of this act.

Sec. 8. It shall be the duty of the inspector or magistrate to keep a record of the marks, brands, color, and general description of such hide, and for whom inspected, with the date of inspection, and return a copy of the same to the clerk of the county court of the county in which it was inspected within thirty days after said inspection, and said inspector or magistrate shall be entitled to receive ten cents for each hide so inspected, to be paid by the party having the hide inspected, and any inspector or magistrate failing to keep such book, or failing to make such report as above provided for, may be fined in any sum not less than one dollar nor more than twenty-five dollars.

Sec. 9. Provided, that the provisions of this act shall not apply to either of the following counties: Collin, DeWitt, Goliad, Karnes, Lamar, Bee, Victoria, Calhoun, Refugio, Bell, Coryell, Hamilton, Mills, Brown, Comanche, Lavaca, Llano, San Saba, Anderson, Concho, Runnels, Coleman, Travis, Grayson, Cooke, Montague, Colorado, Bexar, Jasper, Newton, Orange, Jefferson, Polk, San Jacinto, Tyler, Chambers, Hardin, Liberty, Harrison, Smith, Upshur, Gregg, Wood, Rains, Bowie, Cass, Morris, Titus, Lee, Bastrop, Fayette, Hill, Johnson, Ellis, McLennan, Falls, Robertson, Milam, Brazos, Galveston, Brazoria, Matagorda, San Patricio, Guadalupe, Caldwell, Hays, Blanco, Comal, Tarrant, Wise, Parker, Jack, Dallas, Nacogdoches, San Augustine, Shelby, Sabine, Panola, Rusk, Hunt, Hopkins, Delta, Franklin, Camp, Angelina, Houston, Leon, Grimes, Madison, Kaufman, Rockwall, Fannin, Red River, Van Zandt, Henderson, Cherokee, Bosque, Hood, Erath, Somervell, Collin, Denton, Trinity, Walker, Montgomery, Harris, Austin, Washington, Wharton, Fort Bend, Waller, Burleson, Limestone, Freestone, Navarro, Karnes, Mason, Medina, Kimble, Kerr, Kendall, Bandera, Sutton, Gillespie, Williamson, Lampasas, Burnet, El Paso, Presidio, Brewster, Midland, Reeves, Marion, Ward, Jeff Davis, Palo Pinto, Eastland, Jones, Shackelford, Callahan, Baylor, Knox, Haskell, Wilson, and Wilbarger.

Sec. 10. The great inconvenience caused to the public by the present law creates an emergency and great public necessity that the constitutional rule requiring bills to be read on three several days be suspended; and the same is hereby suspended, and this act shall take effect from and after its passage.

Approved March 24, A. D. 1893.

JUDICIAL DISTRICT—FORTY-SEVENTH.

CHAP. 40.—[S. B. No. 210.] An act to fix the time for holding the courts in the Forty-seventh judicial district, and to repeal all laws in conflict herewith.

Section 1. Be it enacted by the Legislature of the State of Texas: That the district court shall be held in the counties composing the Forty-seventh judicial district each year as follows:

In the county of Donley on the first Mondays in February and August, and may continue in session three weeks.

In the county of Armstrong on the third Mondays after the first Mondays in February and August, and may continue in session two weeks.

In the county of Briscoe on the fifth Mondays after the first Mondays in February and August, and may continue in session one week.

In the county of Swisher on the sixth Mondays after the first Mondays in February and August, and may continue in session two weeks.

In the county of Castro on the eighth Mondays after the first Mondays in February and August, and may continue in session one week.

In the county of Deaf Smith on the ninth Mondays after the first Mondays in February and August, and may continue in session one week.

In the county of Randall on the tenth Mondays after the first Mondays in February and August, and may continue in session two weeks.

In the county of Oldham on the twelfth Mondays after the first Mondays in February and August, and may continue in session one week.

In the county of Hartley on the thirteenth Mondays after the first Mondays in February and August, and may continue in session two weeks.

In the county of Dallam on the fifteenth Mondays after the first Mondays in February and August, and may continue in session one week.

In the county of Sherman on the sixteenth Mondays after the first Mondays in February and August, and may continue in session one week.

In the county of Moore on the seventeenth Mondays after the first Mondays in February and August, and may continue in session one week.

In the county of Potter on the eighteenth Mondays after the first Mondays in February and August, and may continue in session six weeks.

Sec. 2. That all process issued or served before this act goes into effect, returnable to the district courts in said judicial district aforesaid, shall be considered returnable to said courts in accordance with the terms as prescribed by this act, and such process is hereby legalized; and all grand and petit jurors drawn and selected under existing laws in any of the counties of said judicial district, shall be considered lawfully drawn and selected for the next term of the district court of their respective counties held after this act takes effect, and such process is hereby legalized and validated.

Sec. 3. That all laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

Sec. 4. The great amount of business now before the Legislature rendering it improbable that this bill can be read on three several days, and the fact that serious inconvenience will result to the people of said judicial district in the administration of justice unless this bill should pass, creates an imperative public necessity requiring the constitutional rule, which requires bills to be read on three several days to be suspended, and said rule is suspended accordingly.

Approved March 24, A. D. 1893.

APPROPRIATION—DEFICIENCY.

CHAP. 41.—[F. C. C. S. S. D. A. B. for S. H. D. A. Bills Nos. 190 and 240.] An act to be entitled an act making appropriations for the registered and estimated deficiencies in the appropriations for the State government from March 1, 1891, to February 28, 1893, and for previous years.

Section 1. Be it enacted by the Legislature of the State of Texas: That the following sums, or so much thereof as may be necessary, be and the same are hereby appropriated for registered and estimated deficiencies:

Executive Office.

	Registered.	Estimated.
For Governor's mansion and grounds.....	\$175 00	

Department of State.

For publishing constitutional amendments....	1,600 00
Balance due clerk for copying laws.....	20 00
For books and stationery.....	45 30

Treasury Department.

For books and stationery.....	139 08
Contingent expenses	13 16

General Land Office.

Books, stationery, and furniture.....	2,473 74	
Water and repairs to fixtures.....	27 38	
Contingent expenses	64 13	
Postage and telegraphing.....		\$100 00

Department of Agriculture, Insurance, Statistics and History.

Postage, stationery, and express.....	497 49
Furniture	304 63

House of Correction and Reformatory, August, 1892, to February 28, 1893.

Deficiency in full.....	700 00
Pay roll and additional guard hire on account of increase of inmates and separating the races	525 00
One fire-proof safe, bought by order of Board of Trustees	250 00
Discharged inmates	117 55
Deficiency in maintenance appropriation.....	1,750 65
To pay State penitentiary for two wagons.....	85 00
To pay the penitentiary at Rusk for water and sewer pipe	217 80

Supreme Court, September 22, 1891, to February 28, 1893.

	Registered.	Estimated.
Salary of clerk.....	\$1,250 00	
Fuel and lights	30 00	
Postage and contingent	45 21	
Books and stationery	221 76	
Clerk's cost adjudged against the State.....	87 00	

Commission of Appeals.

Furniture	56 40
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Criminal Court of Appeals.

For judges' salary	1,931 25
Fuel and lights	178 54
Postage and contingent	103 19
Court of Criminal Appeals, Dallas, Texas.	
Blank books, file cases and stationery.....	981 77
Postage and contingent expenses.....	100 00

Court of Civil Appeals—First Supreme Judicial District, Galveston, from September 1, 1892, to March 1, 1893.

Salary stenographer, five months.....	500 00
Hire of porter, five months, at \$35 per month..	175 00
Books and stationery	400 00
Fuel and lights	100 00
Postage and contingent expenses.....	250 00
Two typewriters, clerk and stenographer.....	170 00
Law Books, West Publishing Company.....	356 50
Law books, Gilbert Book Company.....	25 00
Books for library and consulting room.....	500 00
Sheriff's attendance	150 00
Official seal, certificate stamp, stamp dater, blank books, stationery, etc., due Jeff D. Burns & Co., Tyler, Texas.....	223 50
Books and stationery, due Clarke & Courts, Galveston	95 05
Services of A. B. Peticolas, reporter, from No- vember 1, 1892, to March 1, 1893.....	500 00

Court of Civil Appeals, Second Supreme Judicial District, Fort Worth, Texas.

For salary of stenographer	500 00
Services of B. R. Webb, assistant reporter, from November 1, 1892, to March 1, 1893.....	500 00
Ice and ice water	14 10

Court of Civil Appeals, Third Supreme Judicial District, Austin, Texas, from September 1, 1892, to February 28, 1893.

	Registered.	Estimated.
Salary of stenographer	\$500 00	
Bailiff	150 00	
Porter hire	240 00	
Postage	75 00	
Books and stationery	632 85	
Erie Telephone Company	20 00	

Judicial Department.

For salary district attorney	184 60	\$1,000 00
Fees and costs of sheriffs, clerks, and attorneys in felony cases	40,799 59	75,000 00
Fees of county judges, justices of the peace, sheriffs, and constables in examining trials..	1,250 76	3,750 00
Expenses of attached witnesses.....	43,138 38	30,000 00
Salaries of special judges, registered and estimated	6,000 00	
Publishing Supreme Court Reports, registered and estimated	6,500 00	

Public Buildings and Grounds.

For repairs and painting	295 26
Water, fuel, lights, etc.....	4,168 21

Insane Asylum at Austin.

For repairs, sewerage, plumbing, etc.....	16,852 44
Dry goods, bedding, and clothing.....	2,684 94
Contingent expenses	239 75
Medical stores	424 67
Additional ward furniture	825 54
Groceries, fuel, light and water.....	3,759 56

Southwest Insane Asylum.

For water supply	6,257 00
Dry goods, bedding, etc.....	494 08
Contingent expenses	26 25
Groceries, fuel, etc	4,461 07

Attorney General's Office.

For telegraphing and stationery.....	22 29
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Deaf, Dumb, and Blind Asylum for Colored Youths, Austin.

For groceries, provisions, miscellaneous, etc....	70 89
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A. and M. College.

	Registered.	Estimated.
For payment of expense incurred in boring artesian well	5,117	91

Insane Asylum at Terrell.

General repairs	2,402	31
Carpenter shop, paid [paint] shop, and dead house	56	40
Building bake oven	588	25
Extension of sewer	140	00
Wagons, hacks, and harness.....	33	90
Contingent expenses	177	30
Medical stores	486	40
Trees, seed, and stock	91	90
A. M. Dolph & Co.'s bill for laundry machinery	1,012	39
John Van Runge. bill for kitchen furniture..	810	95

Deficiencies Remaining from Year Ending
March 1, 1891.

Furniture and beds	231	05
Groceries, fuel, light, and water.....	239	25
General repairs	49	28
Trees, seed, and stock	96	60
Contingent expenses	124	40
Literature and amusements	17	50

Public Printing.

Registered and estimated.....	5,867	06
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Miscellaneous.

Election booths under the Australian ballot sys- tem	4,031	24
For refunding to liquor dealers.....	4,500	00
		\$500 00

Contingent Expenses.

For called session Twenty-second Legislature..	2,554	70
For costs in escheated cases.....	500	00
For pay of D. T. Webb, a special pensioner, for the years 1891 and 1892 (omitted from the general appropriation bill of 1891).....	200	00

Provided, that no part of the appropriation herein made for the salaries of special judges shall be applied to the payment of any such judges who, sitting as judges of the Criminal Court of Appeals, shall have held under advisement for as long a period as three months the case or cases that they were appointed to try, thereby denying persons charged with crime the constitutional right of a speedy trial, and depriving them of their liberty.

Sec. 2. The fact that there is no appropriation to pay the claims herein stated, which are registered and estimated as outstanding against the State,

creates an emergency and an imperative public necessity which justifies the suspension of the constitutional rule requiring bills to be read on three several days in each house, and this act should take effect from and after its passage, and it is so enacted.

Approved March 25, A. D. 1893.

FISH AND GAME.

CHAP. 42.—[H. B. No. 105.] An act to amend an act passed by the Twenty-first Legislature, approved April 4, 1889, entitled an act to amend an act passed by the Twentieth Legislature, approved April 2, 1887, entitled "An act to amend article 430 of section 1, and to repeal section 2 of an act entitled 'an act to amend articles 423, 424, 425, 426, 427, 428, 429, 430a, and to create article 426½, and to repeal article 430, chapter 5, title 13, of the Penal Code of the Revised Statutes, for the protection of fish and game,' approved March 15, 1881."

Section 1. Be it enacted by the Legislature of the State of Texas: That article 430 of section 1 of an act entitled "An act to amend articles 423, 424, 425, 426, 427, 428, 429, and 430a, and to create article 426½, and to repeal article 430 of chapter 5, title 13, of the Penal Code of the Revised Statutes, for the protection of fish and game, approved March 15, 1881," be so amended as to read as follows:

"Article 430. That the following counties are hereby exempted from the provisions of articles 426, 426½, 427, 428, and 429 of this chapter, to-wit:

"Cherokee, Shelby, Franklin, Rockwall, Hopkins, Brazos, Williamson, Coryell, Brown, Mills, Comanche, Runnels, Cooke, Wise, Madison, Clay, Jack, and the unorganized counties attached to the same for judicial purposes, Freestone, Stephens, Eastland, Palo Pinto, Polk, Throckmorton, Callahan, Taylor, Jones, Kent, Garza, Lynn, Terry, Yoakum, Trinity, Archer, Wichita, Wheeler, Oldham, King, Dickens, Crosby, Wilbarger, Childress, Lubbock, Hockley, Cochran, Bailey, Lamb, Lamar, Hale, Floyd, Motley, Cottle, Hall, Briscoe, Swisher, Castro, Parmer, Greer, Deaf Smith, Randall, Armstrong, Donley, Collingsworth, Gray, Carson, Potter, Hutchinson, Hartley, Moore, Roberts, Hemphill, Lipscomb, Ochiltree, Hansford, Sherman, Hardeman, Dallam, Cass, San Jacinto, Camp, Dimmit, Kinney, Cameron, Jackson, Kauffman, and the unorganized county of Zavala: Provided, that the exemption from the operation of this law shall not apply to article 425; And provided, that the counties of Angelina, Walker, Trinity, Panola, Jack, and Young are hereby exempted from articles 425, 426, 426½, 427, 428, and 429 of this act: And provided, that the counties of Fannin, Delta, and Hopkins are hereby exempted from the provisions of articles 426 and 426½: And provided, that the county of Lee is exempted from the provisions of articles 426 and 429: And provided, that the counties of Bastrop, Frio, Wilson, Fort Bend, Lampasas, and Brazoria are hereby exempted from the provisions of article 429: And provided, that the counties of Gonzales and Morris are hereby exempted from the provisions of articles 426, 426½, 427, and 428: And provided, that the counties of Bowie, Nacogdoches, Hill and Rusk are hereby exempted from the provisions of articles 427, 428, and 429: Provided further, that the counties of Franklin, Palo Pinto, Panola and Williamson shall be ex-

empted from the provisions of article 423, and the counties of Waller, Tyler, and Newton shall be exempted from the provisions of article 426: Provided further, that the county of Burnet is hereby exempted from the game and fish laws of this State: Provided, that the counties of Karnes and Atascosa shall be exempted from the provisions of articles 423, 424, 426, 426½, and 429: Provided, that the counties of Camp, Hill, and Panola shall be exempt from articles 423 and 424: Provided, that the counties of Shelby, Wise, and Montague shall be exempt from the provisions of article 424: Provided, that the county of Bell is hereby exempted from the provisions of this article.

Approved March 29, A. D. 1893.

INSPECTION OF HIDES AND ANIMALS.

CHAP. 43.—[S. B. No. 35.] An act to amend section 1a of an act approved April 15, 1891, entitled "An act to amend section 1 of an act approved March 23, 1891, entitled an act to amend chapter 25 of the acts of A. D. 1883, entitled an act to amend chapter 48 of the acts of 1887, an act to amend section 46 of an act to encourage stockraising and to protect stockraisers, approved April 22, 1879, and amended April 12, 1880, March 27, 1887, and March 29, 1886, so that the same shall hereafter read as follows:"

Section 1. Be it enacted by the Legislature of the State of Texas: That section 1a of the above recited act be amended so as to hereafter read as follows:

Section 1a. The following named counties are exempted from the operation of the stock inspection law, to-wit: Comanche, Wilbarger, Hardeman, Archer, Bailey, Deaf Smith, Dallam, Oldham, Hartley, Hockley, Cochran, Foard, and Wichita.

Sec. 2. The near approach of the season for selling, moving, and handling stock, and the inconvenience and unnecessary delay and expense occasioned by the operation of the stock inspection law upon the stockraisers of the counties affected by this bill creates an emergency and a public necessity exists for the suspension of the constitutional rule requiring bills to be read on three several days, and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved March 29, A. D. 1893.

IRRIGATION.

CHAP. 44.—[S. B. No. 248.] An act to amend section No. 5 of an act entitled "An act to encourage irrigation, and to provide for the acquisition of the rights to the use of water, and for the construction and maintenance of canals, ditches, flumes, reservoirs, and wells for irrigation, and for mining, milling, and stockraising, in the arid districts of Texas," approved March 19, 1889, so as to extend the time within which to file and have recorded the sworn statement provided for in said section No. 5 of said act, and give to such owners of such ditches, canals, flumes, reservoirs, and wells for irrigation a preference lien for the use of the water from such ditches, etc., under a lease or rental contract.

Section 1. Be it enacted by the Legislature of the State of Texas: That section No. 5 of the above entitled act be so amended as to hereafter read as follows:

Section 5. Every person, corporation, or association of persons which have heretofore constructed or may hereafter construct any ditch, canal, or reservoir for the purposes named in this act, and taking water from any natural stream, shall, within ninety days after this act goes into effect, or within ninety days after the commencement of such construction, file and cause to be recorded in the office of the county clerk of the county where the headgate of such ditch or canal may be situated, or to which said county may be attached for judicial purposes, in a well bound book, to be kept by said clerk for that purpose, a sworn statement in writing, showing the name of such ditch, or canal, the point at which the headgate thereof is situated, the size of the ditch, or canal, in width and depth, and the carrying capacity thereof in cubic feet for second of time, the name of said stream from which said water is taken, the time when the work was commenced, and the name of the owners or owner thereof, together with a map showing the route of said ditch, or canal.

Sec. 2. Every person, corporation, or association of persons which has heretofore constructed or which may hereafter construct any ditch, canal, or reservoir for the purpose of irrigation, and who shall lease, or rent, the water from said ditch, canal, or reservoir to any person, persons, or association of persons or corporation owning any land subject to irrigation from such ditch, canal, or reservoir, such person, corporation, or association of persons owning such ditch, canal, or reservoir shall have a preference lien upon the crop or crops raised upon the ground thus irrigated under such rental and lease contract, and the provisions of chapter No. 58, Revised Statutes, governing the enforcement and collection of rents by a landlord from his tenant shall, in so far as applicable, apply to the enforcement and collection of the lien herein created: And provided further, the contract of lease or rental of such water be required to be in writing, and properly acknowledged by both lessor and lessee, and filed in the office of the county clerk of the county wherein such water is used.

Sec. 3. Owing to the near approach of the end of the session, and the accumulation of business before the Legislature, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and the same is hereby suspended.

Approved March 29, A. D. 1893.

LOCAL OPTION.

CHAP. 45.—[S. B. No. 14.] An act to amend articles 3227, 3228, 3229, 3230, 3231, 3232, 3233, 3234, 3235, 3236, 3237, 3238, 3239, 3239a, 3239b, 3239c, title 63, of the Revised Civil Statutes of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas: That articles 3227, 3228, 3229, 3230, 3231, 3232, 3233, 3234, 3235, 3236, 3237, 3238, 3239, 3239a, 3239b, 3239c, title 63, of the Revised Civil Statutes of the State of Texas, be so amended as to hereafter read as follows:

Article 3227. The commissioners court of each county in the State, whenever they deem it expedient, may order an election, to be held by the qualified voters of said county, or of any justice's precinct, or such subdivisions of a county as may be designated by the commissioners court of said county, or any town or city therein, to determine whether or not the sale of intoxicating liquors shall be prohibited in such county, justice's precinct, or subdivision of such county, or in any town, or city: Provided, it shall be the duty of said commissioners court to order the election aforesaid whenever petitioned to do so by as many as two hundred and fifty voters in any county, or fifty voters in any justice's precinct, or subdivision of such county, as shall be designated by said court, or in any city or town, as the case may be: Provided, that if the justice's precinct, or subdivision of such county, embrace within its limits an incorporated town or city or portions thereof, then such election shall only be ordered when the petition for the same is signed by qualified voters, not less than one-tenth in number of the total vote cast for Governor at the next preceding general election in such incorporated town or city; and in case an election is asked for a subdivision of such county, the petition shall describe such subdivision by metes and bounds, and the said petition and description of said subdivision shall be recorded in full in the minutes of the commissioners court, and such description shall be embraced in the notice given for such election: Provided, no city or town shall be divided in making any such subdivision.

Article 3228. The preceding article shall not be so construed to prohibit the sale of wines for sacramental purposes, nor alcoholic stimulants as medicines in cases of actual sickness, but such stimulant shall only be sold upon the written prescription of a regular practicing physician, dated and signed by him, and certified, on his honor, that he, the physician, has personally examined the applicant, naming him, and that he finds him actually sick and in need of the stimulant prescribed as medicine: Provided, that a physician who does not follow the profession of medicine as his principal and usual calling shall not be authorized to give the prescription provided for in this article: And provided further, that no person shall be permitted to sell more than once on the same prescription, nor shall any person be permitted to sell at all on the prescription of a physician not herein authorized to give it, nor on a prescription which is not dated, signed, and certified as above required: Provided, that every person selling such stimulants upon the prescription herein provided for, shall cancel such prescription by endorsing thereon the word "cancelled," and file the same away.

Article 3229. When the commissioners court, of their own motion, or upon the petition provided for in article 3227, shall order the election

as herein provided for, it shall be the duty of said court to order such election to be held at the regular voting place or places within the proposed limits, upon a day not less than fifteen nor more than thirty days from the date of said order, and the order thus made shall express the object of such election, and shall be held to be *prima facie* evidence that all the provisions necessary to give it validity, or to clothe the court with jurisdiction to make it, have been fully complied with. Provided, that if there is no regular voting place within the proposed limits of a subdivision less than a justice's or voting precinct, then the commissioners court shall designate some suitable place within said subdivision, where said election shall be held, and said place shall be named in the notices of election, and said court will appoint such officers to hold such election as are now required to hold general elections.

Article 3230. The clerk of said court shall post, or cause to be posted, at least five copies of said order at different places within the proposed limits for at least twelve days prior to the day of election, which election shall be held, and the returns thereof made, in conformity with the provisions of the general laws of the State, and by the officers of the election appointed and qualified under such laws.

Article 3231. At said election, those who favor the prohibition of the sale of intoxicating liquors within the proposed limits shall have written or printed on their tickets the words, "For Prohibition," and those who oppose it shall have written or printed on their tickets the words, "Against Prohibition."

Article 3232. The officers holding said election shall, in all respects not herein specified, conform to the existing laws regulating elections, and after the polls are closed shall proceed to count the votes, and within ten days thereafter make due report of said election to the aforesaid court.

Article 3233. Said court shall hold a special session on the eleventh day after the holding of said election, or as soon thereafter as practicable, for the purpose of opening the polls, and counting the votes, and if a majority of the votes are for prohibition, said court shall immediately make an order declaring the result of said vote, and absolutely prohibiting the sale of intoxicating liquors within the prescribed limits, except for the purposes and under the regulations specified in this title, until such time as the qualified voters therein may, at a legal election, held for that purpose, by a majority vote, decide otherwise; and the order thus made shall be held to be *prima facie* evidence that all the provisions of law have been complied with, in giving notice of and holding said election, and in counting and returning the votes and declaring the result thereof.

Article 3234. The order of court, declaring the results, prohibiting the sale of such liquors, shall be published for four successive weeks in some newspaper published in the county wherein such election has been held, which newspaper shall be selected by the county judge for that purpose. If there be no newspaper published in the county, then the county judge shall cause publication to be made by posting copies of such order at three public places within the prescribed limits for the aforesaid length of time. The fact of publication in either mode shall be entered by the county judge on the minutes of the commissioners court. An entry thus made,

or a copy thereof, certified under the hand and seal of the clerk of the county court, shall be held sufficient prima facie evidence of such fact of publication.

Article 3235. If a majority voting at such election vote against prohibition, the court shall make an order declaring the result, and have the same entered of record in the office of the clerk of said court.

Article 3236. No election under the preceding articles shall be held within the same prescribed limits in less than two years after an election under this title has been held therein, but at the expiration of that time the commissioners court of each county in the State, whenever they decree it expedient, may order another election to be held by the qualified voters of said county, or of any justice's precinct, or such subdivision of a county as may be designated by the commissioners court of such county, for the same purpose: Provided, it shall be the duty of such court to order the election aforesaid, whenever petitioned to do so by as many as two hundred voters of any county, or fifty voters of any justice's precinct or subdivision of such county, as the case may be, to order an election for the same purpose, which election shall be ordered held, notice thereof given, the votes returned and counted, and the results disclosed and published, in all respects as provided by this title for a first election; and the order granting such other elections, as well as that disclosing the result, shall, if prohibition be carried, have the same force and effect and the same conclusiveness as are given to them in the case of a first election by the provisions of this title.

Article 3237. When such second election results against prohibition, the court shall enter an order setting aside the previous order enforcing prohibition, and shall officially announce and publish the same as provided where the election resulted in prohibition.

Article 3238. The failure to carry prohibition in a county shall not prevent an election for the same from being immediately thereafter held in a justice's precinct, or subdivision of such county as designated by the commissioners court, or of any town or city in such county, nor shall the failure to carry prohibition in a town or city prevent an election from being immediately thereafter held for the entire justice's precinct or county in which said town or city is situated, nor shall the holding of an election in a justice's precinct in any way prevent the holding of an election immediately thereafter for the entire county in which the justice's precinct is situated; but when prohibition has been carried at an election ordered for the entire county, no election on the question of prohibition shall be thereafter ordered in any justice's precinct, town, or city of said county, until after prohibition has been defeated at a subsequent election for the same purpose ordered, and for the entire county, in accordance with the provisions of this title, nor in any case where prohibition has carried in any justice's precinct, shall an election on the question of prohibition be ordered thereafter in any town or city of such precinct, until after prohibition has been defeated at a subsequent election ordered and held for such entire precinct.

Article 3239. When any such election has been held and has resulted in favor of prohibition, and the aforesaid court has made the order declaring the result, and the order of prohibition, and has caused the same to be published as aforesaid, any person who shall thereafter, within the

prescribed bounds of prohibition, sell, exchange, or give away, with the purpose of evading the provisions of this title, any intoxicating liquors whatsoever, or in any way violate any of the provisions of this title, shall be subject to prosecution by information or indictment, and shall be punished as prescribed in the Penal Code.

Article 3239a. At any time within thirty days after the result of an election has been declared, any qualified voter of the county, justice's precinct, or subdivision of such county, or in any town or city of such county, in which such election has been held, may contest the said election in any court of competent jurisdiction in such manner as has been or may hereafter [be] prescribed, and should it appear from the evidence that the election was illegally or fraudulently conducted, or that by the action, or the want of action, on the part of the officers to whom was entrusted the control of such election, such a number of legal voters were denied the privilege of voting as, had they been allowed to vote, might have materially changed the result, or if it appears from the evidence that such irregularities existed as to render the true result of the election impossible to be arrived at, or very doubtful of ascertaining, the court shall adjudge said election to be void, and shall order the proper officer to order another election to be held, and shall cause a certified copy of such judgment and order of the court to be delivered to such officer, upon whom it devolved by law the duty of ordering such election.

Article 3239b. In all cases where any person, firm, or association of persons, pursuing the occupation of liquor dealers, under license issued in accordance with the laws of this State, has been or shall hereafter be prevented from pursuing such occupation for the full time to which he would be otherwise entitled, by reason of the adoption of local option in any county, precinct, subdivision of such county, town, or city, a proportionate amount of taxes paid by him for the unexpired time shall be refunded to him.

Article 3239c. It is hereby made the duty of the district judges to give this act in charge to the grand juries, and it is made the special duty of the county attorneys to file, or have filed, a complaint in the county court of said county against all houses and the keepers thereof, used for sale, exchange, or gift of any kind of intoxicating liquors in any county, justice's precinct, or subdivision of such county, or of any town or city in such county in this State when local option has been voted by the citizens thereof. Where any hidden devices are resorted to, to prevent or avoid detection of the keeper thereof, and upon said complaint being filed with any justice of the peace, describing the place where the device is kept, and the name of the person violating this law, if known, said justice of the peace shall issue his warrant commanding any sheriff or constable to search said place, and if the law is being violated, to arrest the person or persons so violating the law. And it shall be the duty of the sheriff of the county wherein such house or place where such device is kept for the sale or gift of intoxicating liquors, to demand admission into the same, and upon admittance being refused, the sheriff is hereby authorized and required by law to force open the same and arrest and hold for trial before the courts all such persons who shall violate the provisions of this act, and it is the duty of the county judges and justices of the peace having jurisdiction in the premises to see that this act is

rigidly enforced: Provided, no arrest or search shall ever be made until the sheriff shall first procure a warrant therefor, issued by the proper authority.

Approved March 29, A. D. 1893.

JUDICIAL DISTRICT—FIFTY-FOURTH.

CHAP. 46.—[S. H. B. No. 39.] An act to amend section 19 of an act entitled "An act to redistrict the State into judicial districts, and fix the times for holding court therein, and to provide for the election of judges and district attorneys in said districts at the next general election, to be held on the first Tuesday after the first Monday in November, 1884," approved April 9, 1883; to create the fifty-fourth judicial district, fix the times for holding court therein, and provide for the appointment of a district judge for said district, and to repeal all laws in conflict with this act.

Section 1. Be it enacted by the Legislature of the State of Texas: That section 19 of the above recited act, approved April 9, 1883, be and the same is hereby so amended as hereafter to read as follows:

Sec. 19. The nineteenth judicial district shall be composed of the county of McLennan, and the district court shall be held therein as follows: On the first Mondays in January, April, July, and October in each year, and may continue in session until the business is disposed of: Provided, the October term shall not continue longer than the last Saturday before the 25th day of December.

Sec. 2. The counties of Falls and McLennan shall compose the fifty-fourth judicial district, and the district court shall be held therein as follows: In the county of Falls on the first Mondays in January and July, and may continue in session eight weeks. In the county of McLennan on the first Mondays in March, September, and November, and may continue in session until the business is disposed of.

Sec. 3. The two district courts aforesaid in McLennan county shall have concurrent jurisdiction with each other throughout the limits of McLennan county of all matters, civil and criminal, of which jurisdiction is given to the district courts by the Constitution and laws of the State: Provided, that the judge of the nineteenth judicial district shall never empanel a grand jury in his said court, but may at any time reconvene the grand jury empaneled by the judge of the fifty-fourth judicial district when in his judgment a necessity therefor exists.

Sec. 4. Immediately after this act takes effect, the Governor shall appoint some suitable person as judge of the fifty-fourth judicial district, who shall hold said office until the next general election for State and county officers, and until the election and qualification of his successor in office.

Sec. 5. The clerk of the district court of McLennan county as heretofore constituted, and his successors in office, shall be the clerk of both of said district courts in McLennan county, and shall perform all the duties pertaining to the clerkship of both of said courts.

Sec. 6. Either of the judges of said district courts in McLennan county may, in their discretion, either in term time or vacation, transfer any cause or causes, civil or criminal, that may at any time be pending in his

court, to the other district court in McLennan county, by order or orders entered upon the minutes of his court, and where such transfer or transfers are made, the clerk of said courts shall enter such cause or causes upon the docket of the court to which such transfer or transfers are made, and when so entered upon the docket the judge of said court shall try and dispose of said causes in the same manner as if such causes were originally in said court.

Sec. 7. No petit juries shall be drawn for the July term of said court of the nineteenth judicial district, unless the judge thereof shall deem the same necessary.

Sec. 8. That all laws and parts of laws in conflict with this act are hereby repealed.

Sec. 9. The crowded condition of the dockets of the district and county courts of McLennan county, and the necessity for two district courts in said county creates an imperative public necessity and emergency that requires that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Signed]

JOHN H. COCHRAN,
Speaker of the House of Representatives.
M. M. CRANE,
President of the Senate.

[Endorsements.]

The following endorsements appear upon this bill:

I hereby certify that the within named S. H. B. No. 39 originated in the House, and passed the same by a two-thirds vote, ayes 99, noes 5, February 11, 1893.

GEO. W. FINGER,
Chief Clerk House of Representatives.

I hereby certify that the within named S. H. B. No. 39, passed the Senate by a two-thirds vote, ayes 25, noes none, February 17, 1893.

A. M. KENNEDY,
Secretary of the Senate.

March 25, 1893.—Taken up, read, and passed over Governor's veto, ayes 72, noes 20.

CHESTER HAILE,
Acting Chief Clerk House of Representatives.

March 31, 1893.—Taken up, read, and passed over Governor's veto, ayes 23, noes 4.

A. M. KENNEDY,
Secretary of the Senate.

March 31, 1893.—Received from the Senate, as passed over the Governor's veto, and filed with the Secretary of State.

GEO. W. FINGER,
Chief Clerk House of Representatives.

[Note.—This bill was brought to the office of the Secretary of State by Geo. W. Finger, chief clerk of the House of Representatives, on the 31st day of March, A. D. 1893, and deposited with me. Geo. W. Smith, Secretary of State.]

CHILDREN—RESCUE OF FROM CUSTODY OF IMPROPER PERSONS.

CHAP. 47.—[H. B. No. 44.] An act to authorize the rescue of girls and boys under the age of twelve years from the custody of improper persons.

Section 1. Be it enacted by the Legislature of the State of Texas: That upon the petition of any citizen or citizens to the county judge where he or they resided, setting forth that certain persons other than the natural guardian have in charge a girl or boy, child or children, under twelve years of age, to the injury of such child or children, the county judge so petitioned shall determine at a regular or called term the matter of such petition, and by order of court rescue such child or children from the custody of such person or persons and place them in the custody of such person so petitioning, or other suitable person, upon satisfactory proof that such change will benefit such child or children.

Sec. 2. Similar proceedings may be had by writs of habeas corpus.

Sec. 3. The fact that there is now no law for the rescue of children under twelve years of age, and instances cited show an imperative necessity for the rescue of girls held by improper persons, creates an imperative public necessity and emergency requiring the suspension of the constitutional rule requiring bills to be read on three several days, therefore said constitutional rule is hereby suspended; and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved April 7, A. D. 1893.

LEON COUNTY—DIMINISHING CIVIL JURISDICTION OF COUNTY COURT.

CHAP. 48.—[S. B. No. 270.] An act to diminish the civil jurisdiction of the county court of Leon county.

Section 1. Be it enacted by the Legislature of the State of Texas: That the county court of Leon county shall have and exercise the general jurisdiction of a probate court; shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards; grant letters testamentary and administration, settle accounts of executors, administrators, and guardians, and transact all business appertaining to the estates of deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlement and partition and distribution and settlement of estates of deceased persons, and to apprentice minors as provided by law, and issue writs necessary to the enforcement of said jurisdiction; to punish contempt under such provisions as are or may be provided by general law governing

county courts throughout the State; but the said county court of Leon county shall have no other civil jurisdiction whatever.

Sec. 2. The district court of Leon county shall have and exercise jurisdiction in all civil matters and causes, over which, by the laws of this State, the county court of said county would have jurisdiction, except as provided in section one of this act; and all causes, other than probate matters and such as are provided by section one of this act, be and the same are hereby transferred to the district court of Leon county; and all writs and processes relating to any civil matters not included in the subject matters of jurisdiction prescribed in section one of this act, issued by or out of said court of Leon county, be and the same are hereby made returnable to the next terms of the district court of said county.

Sec. 3. The county clerk of Leon county be and he is hereby required, within thirty days after the passage of this act, to make a fair and complete transcript of all entries upon his civil docket, heretofore made in causes which by section two are required to be transferred to the district court of said county, and deliver the same to the district clerk of said county, together with all the papers to such cause pertaining; and all such causes shall be immediately docketed by said district clerk, and such civil causes so transferred shall stand on the docket of said court as appearance cases for the next succeeding term, and disposed of in the same manner as if the same had originally been triable in said district court.

Sec. 4. This act shall not be construed to in any manner affect judgments heretofore rendered by said county court of Leon county, pertaining to matters and causes by which section two of this act are transferred to the district court of said county, but the county clerk of said county shall issue all executions and orders of sale as the judgments in such cases require, and such executions and orders of sale and proceedings thereunder shall be as valid and binding to all intents and purposes as though the changes had not been made as by section two therein contemplated.

Sec. 5. That all laws and parts of laws in conflict with this act are hereby repealed.

Sec. 6. The near approach of the sitting of the district court in Leon county, and the short time required to make the transfer of the cases provided for in this act, creates an imperative public necessity and an emergency requiring the constitutional rule requiring bills to be read on three several days, necessitates the suspension of that rule, therefore said rule is suspended, and this act shall take effect and be in force from and after its passage.

Approved April 8, A. D. 1893.

PUBLIC EDUCATION—CERTAIN COUNTIES TRANSFERRED FROM COMMUNITY TO DISTRICT SCHOOL SYSTEM.

CHAP. 49.—[H. B. No. 508.] An act to transfer Hopkins and other counties from the community school system to the district school system, and to authorize and empower said county to organize and conduct all of their public free schools under the district system as provided by the laws now in force.

Section 1. Be it enacted by the Legislature of the State of Texas: That the following counties are hereby transferred from the community school system to the district school system, and are hereby authorized and empowered to organize and conduct all their public free schools under the district school system, as provided by the laws now in force, to-wit: Hopkins, Milam, Upshur, and Schleicher counties.

Sec. 2. The near approach of the close of this session of the Legislature, and the fact that a new scholastic year is approaching, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and said rule is so suspended, and this act shall take effect and be in force from and after its passage, and it is so enacted.

Approved April 8, A. D. 1893.

RAILROADS—ISSUANCE OF STOCKS AND BONDS REGULATED.

CHAP. 50.—[S. H. B. No. 227.] An act to define franchises; to make public the value of railroads; to make effective section 6, article 12, of the Constitution of the State of Texas; to declare the effect of judicial and other sales of railroads; to limit the amount of stocks and bonds and other indebtedness that may be issued by railroad companies, and to regulate the manner of issuing, registering, and securing the same; to prescribe penalties for violating the provisions of this act, and to prescribe the duties of the Railroad Commission and the Attorney-General in relation thereto.

Section 1. Be it enacted by the Legislature of the State of Texas: That among other things, the power and authority of issuing or executing bonds, or other evidences of debt, and all kinds of stock and shares thereof, and the execution of all liens and mortgages by railroad corporations in this State, are special privileges and franchises, the right of supervision, regulation, restriction, and control of which has always been, is now, and shall continue to be vested in the State government, to be exercised according to the provisions of this and other laws.

Sec. 2. That hereafter no bonds or other indebtedness shall be increased or issued or executed by any authority whatsoever, and secured by lien or mortgage on any railroad or part of railroad, or the franchises or property appurtenant or belonging thereto, over or above the reasonable value of said railroad property: Provided, that in case of emergency, on conclusive proof shown by the company to the Railroad Commission that public interests or the preservation of the property demand it, the said commission may permit said bonds, together with the stock in the aggregate, to be executed to an amount not more than fifty per cent over the value of said property.

Sec. 3. That it shall be the duty of the Railroad Commission to ascertain, and in writing report to the Secretary of State, the value of each railroad in this State, including all its franchises, appurtenances and property. After it shall have prepared said report of value, the commission shall give the company interested ten days notice in writing, by registered letter to the president, treasurer or receiver of said railroad, to the effect that said report is ready to be made, and that if it have any objections thereto it must file them, in writing, within forty days after said service, or the same will be so deposited with the Secretary of State as correct. Should the company or its duly authorized representative file with said commission any objections to said report of value, the commission shall duly investigate and pass on the same. On investigation, if the commission conclude that its report of value is too low or too high, then it shall make the necessary correction before filing it. Should no objections be filed within the time permitted, or being filed and on examination found without merit, the commission shall forthwith file its said report in the office of the Secretary of State, where it shall remain as a public record, as a limitation for the issuance of indebtedness under the limitations prescribed in section 2 of this act. To promote public interests and protect private rights, the commission after due notice under the rule herein prescribed, may correct its report of value of any railroad at any time it may deem proper.

Sec. 4. That every judicial or other sale of any railroad in this State hereafter made, which shall have the effect to discharge the property so sold from liability in the hands of purchasers for claims for damages, unsecured debts, or junior mortgages against such railroad company so sold out, shall have the effect to annul and cancel all claims of every stockholder therein to any share in the stock of such railroad; and it shall not be lawful for said purchasers or for any railroad company organized hereafter to operate said railroad, to issue any stock in lieu of the old stock or to allow any compensation therefor in any manner whatever, nor shall all or any part of the debt to satisfy which such sale is made be continued or held as a claim or lien on said property.

Sec. 5. The purchasers of said property who procure it clear of incumbrance, or any company organized by their consent to operate said railroad under and in pursuance of the laws of this State, may issue stock and bonds in the proportion that they may deem advisable, subject to the rules, restrictions and limitations prescribed in sections 2 and 3 and four of this act.

Sec. 6. Should any company or corporation authorized to construct, own or operate a railroad in this State desire to issue bonds or other indebtedness, to be secured by lien or other mortgage on its franchises and property, in advance of the completion of the said railroad, it shall make application to and first procure the consent of the Railroad Commission thereto. In said application it shall exhibit to the commission its contract with the construction company, if it have any; the profile of its completed road or part of road, the evidence of its right of way, depot grounds, terminal facilities; the extent and value of work done or in process of completion; the amount of property received; the amount of stock subscribed and the amount paid in; and all other necessary facts showing the value of the franchises and property proposed as security for said contemplated debts. If, on investigation, the commission is satisfied that

the company is acting in good faith, and that its contract with the construction company is reasonable and fair to the public, then it shall authorize the execution of said indebtedness and lien to the extent necessary for the demands of the work, at no time to be more than fifty per cent over the value of the whole property and franchises. In executing said bonds the company shall comply with section 8 of this law, and have them registered, as required in section 9.

Sec. 7. Each railroad company now existing, or that shall hereafter be organized or that shall be reorganized under the laws of this State, or which shall increase its stock under the laws of this State, shall issue certificates to the subscribers to its said stock under the following regulations: A majority of the board of directors shall meet in person in the State of Texas, at the principal office of such company, and shall cause to be made a list of the subscribers to such stock, showing the number of shares subscribed by each, the amount of stock represented by each share and the amount actually paid, labor done or property received on each share of stock, and shall cause to be affixed to each name on said list a number, beginning with number one, or the next highest number of any certificate previously issued.

The president of the board or presiding officer of the meeting at which the issuing of such certificates of stock is authorized, shall make a certificate to said statement to the effect that the same is correct, and that the amount of money paid, labor done and property received as stated is correct, and shall sign the same in person. Such statement shall thereupon be entered at large upon the minutes, and after having the seal of the company affixed thereto, shall be attested by the secretary of the company and deposited with the Railroad Commission, and by it filed and preserved in the office. The secretary of the company shall then be authorized to make out and deliver to each stockholder in said list a certificate corresponding with said statement in number, name, number of shares, amount of stock represented by each share, and the amount of money or its equivalent paid upon each share, which certificate shall be signed by the president of the said railroad company, attested by the secretary, with the seal of said company affixed. No railroad company shall hereafter increase its stock unless all existing shares of stock shall have been paid in full, or all unpaid shares of such stock have been sold out as forfeited under the law. When the certificates to be issued are for increase of stock, the statement herein required to be made by the board of directors shall state that all existing shares of stock have been paid in full or that all shares not paid in full have been sold out or forfeited under the law. In no event shall the stock exceed the value of the railway property, and the correct aggregate amount of stock so issued by each railway company shall be certified to and registered in the office of the Secretary of State by or at the instance of the Railroad Commission.

Sec. 8. Whenever any railroad company in this State shall hereafter desire to make, issue, and sell any bonds or evidences of debt which are to become a lien on its property, it shall comply with the laws of this State regulating the same, and in addition thereto shall have said bonds prepared, signed by the president of the company, and attested by the secretary, with the seal of the company attached thereto. Each bond shall be numbered, beginning with number one, or the next highest number of any preceding bond issued by it, and continue consecutively until

all are numbered. The bonds shall be dated, made payable at a time not exceeding thirty years from date, and shall bear interest not exceeding six per cent per annum. The said bonds, when thus prepared shall be presented to the Railroad Commission of this State, with a statement in writing, signed and sworn to by the president of said company, showing the amount of the stock of said company, and the amount of outstanding bonds, if any, of said company. If said bonds are such as are permitted under this law, and the Railroad Commission shall be so satisfied, it shall approve said bonds, and shall issue to the Secretary of State a direction to register said bonds, specifying the numbers, dates, and amounts thereof. And said Commission shall keep in its office a correct record of the bonds so approved by it, giving the name of the company, the numbers, dates of execution and maturity of the bonds, the amount and rate of interest of each, and the date of approval: Provided, that this provision shall not apply to receivers' certificates where the amount does not exceed \$100,000 dollars.

Sec. 9. When any such bonds shall be presented to the Secretary of State with the direction aforesaid to register, he shall register said bonds by entering a description thereof in a book to be kept for that purpose, which shall show the date, number, amount, when due, the rate of interest on each bond, and also the date when the same is registered. The Secretary of State shall endorse on each bond, under the seal of his office and his official signature, together with the date thereof, as follows: "This bond is registered under the direction of the Railroad Commission of Texas." No bond or other evidence of debt hereafter issued by or under the authority of any person, firm, corporation, court, or railroad company, whereby a lien is created on its franchises or property situated in this State, shall be valid or have any force until the same has been registered as required herein.

Sec. 10. If any railroad company owning or operating a railroad in this State shall hereafter issue or consent to or cause to be issued any bonds or other evidences of debt to be or become a lien on its railroad property so owned or operated, or shall issue any stock not in accordance with the provisions of this act, such action shall work a forfeiture of the charter of said company, and it shall be the duty of the Attorney General to institute proceedings in a court of competent jurisdiction to forfeit the same.

Sec. 11. Every certificate of stock in any railroad company, and every bond and other evidence of debt operating as a lien upon the property of such railroad company, which shall be made, issued or sold without a compliance with this act, shall be void.

Sec. 12. Each and every railroad director, president, secretary or other official who shall knowingly make any false statement upon which to secure the registration of any bond or other evidence of debt as aforesaid, or who shall by false statement knowingly made procure of the Railroad Commission direction to the Secretary of State to register the same, and which shall be by the Secretary of State registered, or shall with knowledge of such fraud negotiate or cause to be negotiated any such bond or other security issued in violation of this act, shall be guilty of a felony, and upon conviction thereof in any court of competent jurisdiction shall be punished by confinement at hard labor in the State penitentiary for a term of years not less than two nor more than fifteen, and shall likewise

be liable to any creditor of such company for the full amount of damages sustained by such wrongful conduct. Venue in such cases shall be in either of the district courts held in Travis county, or in the county where the principal office of the railway company whose property is sought to be so incumbered or affected is located.

Sec. 13. That nothing in this law, and no act done or performed under or in connection with it, shall be held or construed to bind or make the State of Texas liable to pay or guarantee, in any manner whatsoever, any obligation, debt, or claim executed or assumed under or by virtue of its provisions.

Sec. 14. Whereas, the Constitution declares that no corporation shall issue stock or bonds except for money paid, labor done, or property actually received, and that all fictitious increase of stock or indebtedness shall be void; and,

Whereas, the laws are now inadequate to protect the public against a violation of this provision of the Constitution; and,

Whereas, securities issued in violation thereof alike defraud the taxpayers and investors, and unless immediately checked will do irreparable damage to the name of the State of Texas and her commercial interests; therefore an imperative public necessity and emergency exists and require that the constitutional rule requiring bills to be read on three several days be suspended, and that this bill be placed upon its final passage without being so read, and that this act take effect and be in force from its passage, and it is so enacted.

Approved April 8, A. D. 1893.

ROADS — CHEROKEE, HOUSTON, ANDERSON, TRINITY,
FRANKLIN, DELTA, HARRISON, PANOLA, UPSHUR,
SHELBY, SMITH.

CHAP. 51.—[H. B. No. 594.] An act to create a more efficient road system in the counties of Cherokee, Houston, Anderson, Trinity, Franklin, Delta, Harrison, Panola, Upshur, Shelby, and Smith; and auxiliary thereto, to provide for the appointment of road overseers; to define the powers and jurisdiction of the commissioners courts of said counties with regard thereto; to utilize the labor of defaulting poll tax payers on the public roads of said counties; and to provide adequate penalties for the violation of the provisions of this act.

Section 1. Be it enacted by the Legislature of the State of Texas: That all public roads and highways that have heretofore been laid out and established, agreeably to law, in Cherokee, Houston, Anderson, Trinity, Franklin, Delta, Upshur, and Smith counties, except such as have been discontinued, are hereby declared to be public roads.

Sec. 2. The commissioners courts of Cherokee, Houston, Anderson, Trinity, Franklin, Delta, Upshur, Harrison, Panola, Shelby, and Smith counties shall have full power, and it shall be their duty, to order the laying out and opening of public roads, when necessary, and to discontinue or alter any road, whenever it shall be deemed expedient, as hereinafter prescribed.

Sec. 3. It shall be the duty of the commissioners courts to classify all public roads in said counties into first, second, and third class roads.

Sec. 4. First class roads shall be clear of all obstructions, and not less than forty feet nor more than sixty feet wide; all stumps over six inches in diameter to be cut down to six inches of the surface, and rounded off; all stumps six inches and under to be cut smooth with the ground; and all causeways made at least sixteen feet wide.

Sec. 5. Second class roads shall be clear of all obstructions, and not less than thirty feet wide. Stumps six inches and over in diameter to be cut down to six inches of the surface, and rounded off, and all stumps less than six inches in diameter to be cut smooth with the ground; all causeways to be made sixteen feet wide.

Sec. 6. Third class roads shall be clear of all obstructions, and not less than twenty feet wide; stumps six inches and over in diameter to be cut down to six inches of the surface, and rounded off, and all stumps less than six inches in diameter to be cut smooth with the ground; all causeways to be made at least sixteen feet wide.

Sec. 7. The commissioners court shall in no instance grant an order on an application for any new road, or to discontinue an original one, unless the person making application therefor, or some one of them, shall have given at least twenty days' notice, by written advertisement, of their intended application, posted up at the court house door of the county and at two other public places in the vicinity of the route of the proposed new road, or the road proposed to be discontinued.

Sec. 8. All applications for a new road, and all applications to discontinue an existing one, shall be by petition to the commissioners court, signed by at least ten freeholders of the precinct or precincts in which said road is desired to be made or discontinued, specifying in such petition the beginning and termination of such road proposed to be opened or discontinued.

Sec. 9. All roads hereafter ordered to be made shall be laid out by a jury of freeholders of the county, to be appointed by the commissioners court. Said jury shall consist of five persons, a majority of whom may proceed to lay out and mark the road so ordered, to the greatest advantage to the public, and with as little prejudice to enclosures as may be.

Sec. 10. The jurors provided for in the preceding section shall, before proceeding to act as such, take the following oath before some officer authorized to administer oaths, to-wit: I, ———, do solemnly swear that I will lay out the road now directed to be laid out, by the order to us directed from the commissioners court, according to law, without favor or affection, malice or hatred, to the best of my skill and knowledge, so help me God.

Sec. 11. It shall be the duty of such jurors, when qualified as provided in the preceding article, to proceed to lay out and mark the road, in accordance with the order of the court and the law, and to report their proceedings in writing to the next regular term of the commissioners court.

Sec. 12. No public road shall be surveyed or laid out upon or across any farm, lot, or inclosure without first obtaining the written consent of the owner or his agent or attorney to the same, except as hereinafter provided.

Sec. 13. If such written consent shall be refused, it shall be the duty of the commissioners court to appoint five disinterested freeholders, residents of the county, as commissioners, a majority of whom may act, to

view the same, assess the damages incidental to the opening of the road of the first, second, or third class, through any part of said farm, lot, or inclosure, as proposed, taking into consideration the advantages and disadvantages accruing to such owner from the opening of such road, and report their action in writing, and under oath, to the next regular term of the commissioners court.

Sec. 14. If the owner of any inclosed land, his agent or attorney, shall file in the commissioners court a written protest against opening a road, viewed and marked out through such inclosed land, it shall be the duty of the commissioners court to appoint five disinterested freeholders, residents of the county, as commissioners, a majority of whom may act, to view said road, assess the damages, and report in manner and form as provided in the preceding article.

Sec. 15. If, in the judgment of the commissioners court, from the report of the commissioners named in the two preceding sections, the road should be deemed of sufficient importance, the court may order the survey or opening of the same; but the court shall first order the payment of the damages assessed, if any, by the commissioners of view, to be made to the owner of the land, out of the county treasury, and the county treasurer shall have paid the same, or secured its payment, by a special deposit of the amount in his office, subject to the order of such owner, and shall notify such owner by mail or otherwise, of such deposit.

Sec. 16. If no objection be filed, upon the report of a jury appointed upon an application to open a new road, the court shall proceed to establish and classify such road, and order the opening out of the same, and shall appoint an overseer and apportion hands for the same, as in other cases.

Sec. 17. The commissioners court may alter or change the course of any public road, after notice, and upon application in the same manner as provided in this chapter for the discontinuance of a road, except that the application need not be signed by more than one freeholder of the precinct in which such alteration or change is proposed to be made.

Sec. 18. When juries of view are appointed, it shall be the duty of the clerk of the court to make out copies of the order appointing them, in duplicate, and to deliver such copies to the sheriff of the county within ten days after such order of appointment was made, indorsing on such copies the date of such order.

Sec. 19. The sheriff receiving such copies shall serve the same upon the jurors by delivering to each of them, in person, a copy of the order of appointment provided for in the preceding article, or by leaving one of said copies at the usual place of abode of such juror. Service shall be made within twenty days after the sheriff receives said copies, and he shall make his return to the clerk on the duplicate copies, stating the date and manner of service, or, if service has not been made, stating the cause of his failure to make the same.

Sec. 20. Any juror of view, summoned as such, who shall fail or refuse to perform the service required of him by law as such juror, shall forfeit and pay for every such failure the sum of ten dollars, to be recovered by judgment, on motion of the district or county attorney, in the name of the county, in any court of competent jurisdiction of the county in which such defaulter may reside.

Sec. 21. For the further and better providing for public roads, any lines between different persons or owners of land may, upon the condition

provided for in the following sections, be declared public highways, and left open and free from all obstructions for ten feet on either side of said lines; but the marked trees and other objects used to designate said lines, and the corners of surveys, shall not be removed or defaced.

Sec. 22. Whenever ten freeholders may desire the boundary lines between different persons or owners of land to be declared a public highway, in order to give them a nearer, better, or more practicable road to their church, county seat, mill, timber, or water, they may apply to the commissioners court for an order establishing such road.

Sec. 23. The application provided for in the preceding section shall be in writing, and shall be signed and sworn to by the applicants. It shall designate the lines sought to be opened, and the names and residences of the persons or owners to be affected by such proposed road, and shall state the facts which show the necessity for such road.

Sec. 24. Upon the filing of such application, the clerk shall issue a notice reciting the substance thereof, directed to the sheriff or any constable of the county, commanding him to summon the owners of the land, naming them, whose lines are proposed to be left open, to appear at the next regular term of the commissioners court and show cause why said lines should not be declared public highways.

Sec. 25. The notice provided for in the preceding section shall be served in the manner and for the length of time provided for the service of citation in civil actions in justices' courts, and shall be returned in like manner as such citations.

Sec. 26. At a regular term of the court, after due service of notice, as provided in the preceding section, the commissioners court may in its discretion, should it deem the road of sufficient public importance, issue an order declaring the lines designated in the application to be public highways, and direct that the same be opened by the owners thereof, and left open for the space of ten feet on each side of said lines.

Sec. 27. When an order as provided in the preceding section is made, the clerk shall, without delay, issue a notice reciting said order or its substance, directed to the sheriff or any constable of the county, commanding him to serve the owners of such lines named in such notice with a true copy thereof, and the officer to whom said notice is delivered shall, without delay, serve the same as therein directed, and return the same to the clerk, indorsing thereon the manner and date of such service.

Sec. 28. The commissioners court shall not be required to keep any such road as is mentioned in the last seven sections, worked by road hands, as in case of other public roads.

Sec. 29. All costs attending the proceedings provided for in relation to opening neighborhood roads shall be paid by the applicants for any such road, whether their application be granted or not, and may be collected as other costs in civil action.

Sec. 30. The commissioners court may discontinue any neighborhood road which has been established as a public highway in the same manner provided in this act for discontinuing other public roads.

Sec. 31. The owner or owners of the land whose lines have been or may be declared public highways, and also any person through whose land a third class road may run, shall have the right to erect a gate or gates across said road or roads when necessary; said gate or gates to be not less than ten feet wide.

Sec. 32. The amount of damages to be allowed to the owners of said lands for opening the lines of a neighborhood road, as provided in this act, shall be assessed as provided for in the case of first, second, and third class roads in this act. Said damages to be paid by the applicant or applicants for such road.

Sec. 33. The commissioners courts of Cherokee, Houston, Anderson, Trinity, Franklin, Delta, Upshur, and Smith counties shall lay off the counties into convenient road precincts, and shall number each precinct, and in the order establishing the same shall specify as definitely as practicable the boundaries thereof.

Sec. 34. An overseer shall be appointed by said courts for each road precinct at the time of establishing the same, and at the first regular term of the courts in each year the said courts shall appoint an overseer for each road precinct in the county, and shall at the same time designate all the hands liable to work on public roads and apportion them to the several overseers.

Sec. 35. If from any cause the said courts should fail to perform the duties required of them by the preceding section, at its first regular term in each year, it shall be competent and legal for said court to perform said duties at any subsequent term, whether the same be a regular or called term.

Sec. 36. In case of death, removal, or other inability to act of any road overseer, it shall be the duty of the county judges, immediately upon information of the fact, to appoint an overseer to fill such vacancy, who shall be notified of his appointment, as in other cases.

Sec. 37. It shall be the duty of the clerks of said courts to make out copies of all orders appointing overseers of roads, in duplicate, and deliver the same to the sheriff of the county within ten days after such order shall have been made, endorsing on such copies the date of the order of appointment.

Sec. 38. All orders appointing overseers shall embrace the designation of hands liable to work under such overseer, as far as known, and shall specify the boundaries of such overseer's road precinct as laid off by the courts.

Sec. 39. The sheriff shall, within twenty days after the reception of the copies of any order appointing an overseer, deliver to or leave at the usual place of abode of such overseer one of such copies, and shall return the duplicate of such copy to the clerk of the county court, indorsing thereon the date and manner of service, and if not served, the cause of his failure to serve the same.

Sec. 40. The term of service of a road overseer shall be from the time of the service of the order of appointment until the first regular terms of the commissioners courts in the succeeding year.

Sec. 41. No person shall be compelled to serve as an overseer who is lawfully exempt from road duty, nor shall any one be compelled to serve as overseer more than one year in every three successive years.

Sec. 42. It shall be the duty of every person appointed overseer of a road, who is lawfully exempt from duty, to notify the clerks of the county courts of his nonacceptance within ten days after his being notified of his appointment.

Sec. 43. If any person appointed overseer of a road, who is lawfully exempt from road duty, shall notify the clerks of his nonacceptance, as

provided for in the preceding section, the clerk shall forthwith report the same to the county judge, who shall immediately appoint another overseer for said precinct.

Sec. 44. Should any person appointed overseer, and who is lawfully exempt from road duty, fail to notify the clerk of his nonacceptance within ten days after being notified of his appointment, it shall be considered an acceptance of the appointment, and he shall not be permitted thereafter to plead his exemption from road duty as a defense against any neglect or failure to perform any of the duties of such overseer.

Sec. 45. It shall be the duty of the clerks to insert on the copies of all orders of appointment of overseers issued by him, the duties required of overseers in regard to their nonacceptance of such appointment.

Sec. 46. The clerk of the county court shall post at the court house, on the first day of each term of the district court held in his county, a list of the names, and the road precincts, of all the overseers of roads in the county.

Sec. 47. All male persons between twenty-one and forty-five years of age shall be liable, and it is hereby made their duty, to work on, repair, and clean out the public roads, under the provisions and regulations of this act, except ministers of the gospel actually engaged in the discharge of their ministerial duties, and invalids, and members of any company of voluntary guards organized under the provisions of the title "militia," who shall be exempt.

Sec. 48. No person shall be compelled to work on a road who has not been residing in the county in which he is summoned to work for the space of fifteen days immediately preceding such summons.

Sec. 49. Any person liable to road duty, and who has been summoned to do such duty, shall have the privilege to furnish an able bodied substitute to work in his place, which substitute shall be accepted by the overseer if he be capable of performing a reasonable amount of work; otherwise he shall not be accepted.

Sec. 50. Every person liable to work on roads, by paying to his road overseer, at any time before the day appointed to work on his road, the sum of one dollar for each day that he is summoned to work, shall be exempt from working for each day paid for, and also exempt from any penalties for failure to work for the time for which he has so paid.

Sec. 51. Each person summoned to work on a road shall take with him an axe, hoe, pick, spade, or such tool as may be desired and directed by the overseer; or, if he have no such tool as he is desired and directed by the overseer to take with him, he shall take such other suitable tool as he may have.

Sec. 52. It shall be the duty of such road hand to perform his duties as such as required by law, and to do a reasonable amount of work, and in accordance with the directions of his overseer.

Sec. 53. No person shall be compelled to work on any public road or roads more than ten days in each year.

Sec. 54. Every insolvent poll tax payer, being a resident of the county, and not disqualified or excused by physical infirmity, who shall be indebted to the county on any unpaid county poll tax, and from whom the said poll tax can not be otherwise collected by law, may be permitted to discharge the amount of such unpaid county poll tax in labor upon

the public roads of his precinct, at the rate of one dollar per day; and in order to enforce the provisions of this section, the collector of taxes for the county shall be required, on or before the second Monday in May of each year, to furnish to the several overseers of the counties, the names of all the defaulting poll tax payers, together with the amount of county poll tax due and unpaid by each, for which ex officio service the collector shall be exempt from road duty five days; and it shall be the duty of the overseer, whenever any such person shall have discharged his county poll tax as herein provided, to report the same in his regular reports to the commissioners courts: Provided, that no penalty shall ever be imposed upon poll tax payers for refusal or failure to work upon the public roads.

Sec. 55. This act shall be cumulative of all laws of the State on the subject of roads and bridges and employment of county convicts not in conflict herewith, and where not otherwise provided herein such general laws shall apply; but in case of conflict with general laws, this act shall govern; and the courts of the State shall have and take judicial cognizance of this act in the same manner and to the same extent as they are required to know and notice the general laws of the State.

Sec. 56. The vast amount of important business pending, and the fact that the roads of said counties are in a deplorable condition for the want of a more efficient road law, creates an emergency and an imperative public necessity requiring that the constitutional rule requiring bills to be read on three several days be suspended, and it is so enacted, and that this act take effect from and after its passage.

Approved April 19, A. D. 1893.

TAXES—LEVY OF BY COUNTIES TO PAY FOR LANDS DEEDED TO STATE FOR USE OF PUBLIC BUILDINGS.

CHAP. 52.—[H. B. No. 590.] An act to authorize and empower the counties in this State to levy and collect a tax to pay for any lands which have or may hereafter be deeded to the State of Texas for the use of public buildings.

Section 1. Be it enacted by the Legislature of the State of Texas: That the commissioners court of any county in the State of Texas is hereby authorized and empowered to one time levy a tax not exceeding eight cents on the one hundred dollars ad valorem tax on all property subject to taxation in said county or counties, to pay for any lands deeded to the State of Texas heretofore or that may hereafter be deeded to the State of Texas for public purposes, on which to erect public buildings by the State, and to be used by the State as State institutions for the insane.

Sec. 2. That when any county commissioners court, at any regular session thereof, shall hear and determine the justness of any such claim or claims for lands heretofore or that may hereafter be deeded to the State as sites for public institutions of the State, and the amount, at a fair valuation of such lands so deeded, such county commissioners court is hereby authorized and empowered to levy a tax for such purpose, not exceeding eight cents on the one hundred dollars worth of taxable property in such county or counties, to be levied and collected as other taxes are, which, when collected, shall be paid over to the party or parties deeding the

land or lands to the State, upon vouchers duly made out and audited, as other claims are.

Sec. 3. That there exist in this State certain just claims, that in justice and good faith require adjustment, creates an emergency and imperative public necessity for the suspension of the constitutional rule requiring bills to be read on three several days, and the said rule is suspended, and that this act take effect from and after its passage.

Approved April 19, A. D. 1893.

SUBSIDY TAXES—REPAYMENT TO COUNTIES.

CHAP. 53.—[H. B. No. 192.] An act to authorize the State Treasurer to pay to the county treasurer of any county in this State any excess of subsidy taxes paid by such county, after the subsidy bonds of such county and interest thereon has been paid, and to authorize the treasurer of such county to receive and receipt for same.

Section 1. Be it enacted by the Legislature of the State of Texas: That whenever it shall appear to the State Treasurer that any money paid into the State Treasury by any county of this State for the liquidation of subsidy bonds issued by such county, remains to the credit of such county after all of said subsidy bonds and interest have been paid, said State Treasurer shall pay to the treasurer of such county such remaining sum, and the treasurer of such county shall receipt therefor.

Sec. 2. The county treasurer of such county shall place such sum of money to the credit of the general fund of such county.

Sec. 3. Whereas, several counties have paid off their subsidy bonds, and balances remain in the State Treasury to their credit; and whereas, such balances should be paid to them during the current year; therefore the importance of this bill creates an emergency and an imperative public necessity exists that the constitutional rule requiring bills to be read in each house on three several days be suspended, and it is so enacted; and it is further enacted that this act take effect and be in force from and after its passage.

Approved April 19, A. D. 1893.

JUDICIAL DISTRICT—FIFTIETH.

CHAP. 54.—[S. B. 211.] An Act to amend section 3 of an act to reorganize the thirty-second and thirty-ninth judicial districts, and to create the fiftieth judicial district of the State of Texas; to fix the times for holding courts herein: to provide for the appointment and election of a judge and a district attorney in the fiftieth judicial district, and to repeal all laws in conflict herewith; presented to the Governor of Texas for his approval on the 13th day of March, A. D. 1891, and not signed by him, nor returned to the house in which it originated, with his objections thereto, within the time prescribed by the Constitution, and which thereupon became a law without his signature.

Section 1. Be it enacted by the Legislature of the State of Texas: That section 3 of an act to reorganize the thirty-second and thirty-ninth judicial districts and to create the fiftieth judicial district of the State of Texas; to fix the time for holding courts herein; to provide for the ap-

pointment and election of a judge and a district attorney in the fiftieth judicial district, and to repeal all laws in conflict herewith; presented to the Governor of Texas for his approval on the 13th day of March, A. D. 1891, and not signed by him nor returned to the house in which it originated, with his objections thereto, within the time prescribed by the Constitution, and which thereupon became a law without his signature, be so amended as hereafter to read as follows:

Section 3. The fiftieth judicial district shall be composed of the counties of Baylor, Knox, King, Dickens, Crosby, Lubbock, Hale, Floyd, Motley, and Cottle, and the unorganized counties of Cochran, Lynn, and Hockley, and the terms of the district courts shall be held therein as follows:

In the county of Cottle on the first Mondays in February and August, and may continue in session one week.

In the county of Motley on the first Mondays after the first Mondays in February and August, and may continue in session two weeks.

In the county of Floyd on the third Mondays after the first Mondays in February and August, and may continue in session two weeks.

In the county of Hale on the fifth Mondays after the first Mondays in February and August, and may continue in session two weeks.

In the county of Lubbock on the seventh Mondays after the first Mondays in February and August, and may continue in session two weeks.

In the county of Crosby on the ninth Mondays after the first Mondays in February and August, and may continue in session one week.

In the county of Dickens on the tenth Mondays after the first Mondays in February and August, and may continue in session one week.

In the county of King on the eleventh Mondays after the first Mondays in February and August, and may continue in session one week.

In the county of Knox on the twelfth Mondays after the first Mondays in February and August, and may continue in session four weeks.

In the county of Baylor on the sixteenth Mondays after the first Mondays in February and August, and may continue in session six weeks.

That the unorganized counties of Cochran, Lynn, and Hockley are hereby attached to the county of Lubbock for judicial purposes.

Sec. 2. That all process issued or served before this act goes into effect, returnable to the district courts in said judicial district, shall be considered returnable to said courts in accordance with the terms as prescribed by this act, and all such process is hereby legalized; and all grand and petit juries drawn and selected under existing laws in any of the counties in said judicial district, shall be considered lawfully drawn and selected for the next terms of the district courts of their respective counties, held after this act takes effect, and all such process is hereby legalized and validated.

Sec. 3. The crowded condition of the calendar rendering it improbable that this bill can be read on three several days, and the fact that serious inconvenience will result to the people of said judicial district in the administration of justice unless this bill should pass, creates an imperative public necessity requiring the constitutional rule which requires bills to be read on three several days to be suspended, and said rule is suspended accordingly.

Approved April 18. A. D. 1893.

JUDICIAL DISTRICTS—FIFTEENTH AND FORTIETH.

CHAP. 55.—[H. B. No. 687.] An Act to amend an act entitled "An act to reorganize the fifteenth judicial district and the fortieth judicial district, and to amend chapter 67, section 15, of the general laws of Texas, approved April 9, 1883, redistricting the State for judicial purposes, and to amend section 2 of chapter 58 of the general laws of Texas, approved March 27, 1885, creating the fortieth judicial district, and to amend section 1 of an act passed at the regular session of the Twenty-third Legislature, reorganizing the fifteenth and fortieth judicial districts, and fixing the times for holding courts therein, and to add thereto section 1a.

Section 1. Be it enacted by the Legislature of the State of Texas: That section 1 of the act recited in the caption hereof be so amended as hereafter to read as follows:

Section 1. The fifteenth judicial district of the State of Texas shall hereafter be composed of Grayson county, and the district court shall be held therein each year as follows: A term beginning on the third Monday of September of each year, and may continue in session until and including the last Saturday in December. A term beginning on the first Monday in January of each year, and may continue until and including the last Saturday in March. A term beginning on the first Monday in April of each year, and may continue until the business is disposed of.

Sec. 2. Be it further enacted, that section 1a be added to the above recited act, to hereafter read as follows:

Section 1a. That section 1 of the original act, to which this is an amendment, and as above amended, shall not apply to the term of the district court of Grayson county commencing on the second Monday in March, eighteen hundred and ninety-three, but that said term shall continue and be extended to and including the last Saturday in June of said last named year, and that thereafter said court shall be held as hereinbefore provided; and the judge of said court may appoint jury commissioners, and cause juries to be selected and summoned for the said month of June, under the provisions of the laws now in force and governing the same.

Sec. 3. That all laws and parts of laws in conflict with this act be and the same are hereby repealed.

Sec. 4. The large number of cases to be disposed of on the docket of the district court of Grayson county, and the fact that under existing law the district court can not be held in said county in the month of June, creates an emergency and public necessity that the rule requiring bills to be read on three several days be suspended, and this act take effect and be in force from and after its passage, and it is so enacted.

Approved April 19, A. D. 1893.

LIVE STOCK SANITARY COMMISSION.

CHAP. 56.—[S. H. B. No. 112.] An Act to provide for the protection of domestic animals, for the creation of a live stock sanitary commission, for the establishing of live stock quarantine lines, rules, and regulations; to provide penalties for violating the same, and to make an appropriation to carry out the provisions of this act.

Section 1. Be it enacted by the Legislature of the State of Texas: That there shall be appointed by the Governor, and with the consent of the Senate, a live stock sanitary commission of the State of Texas, composed of three members. Before entering upon the duties of their office said commissioners shall take and subscribe to the usual oath of office and file the same with the Secretary of State; and they shall also, before entering upon the performance of their duties, execute a bond, to be approved by the State Comptroller, in the sum of ten thousand dollars each, conditioned that they will faithfully perform the duties of their office, which said bond they shall file with the Secretary of State. The term of office of said commissioners shall be for a period of two years next from the day of their qualification, and until their successors shall have been appointed and qualified.

Sec. 2. The commissioners, whose appointment is provided for in the preceding section, shall each be practical live stock raisers in the State of Texas, and shall have been actively engaged in said business for at least five years next preceding the date of their appointment, and shall be bona fide residents of and stock raisers in the particular section of the State from which they may be appointed. One of said commissioners shall be appointed from the west, one from the south, and one from the eastern portion of said State.

Sec. 3. It shall be the duty of the commission provided for in the first section of this act to protect the domestic animals of this State from all contagious or infectious diseases of a malignant character, whether said diseases exist in Texas or elsewhere; and for this purpose they are hereby authorized and empowered to establish, maintain, and enforce such quarantine lines and sanitary rules and regulations as they may deem necessary. It shall also be the duty of said commission to co-operate with live stock quarantine commissioners and officers of other States and Territories, and with the United States Secretary of Agriculture, in establishing such interstate quarantine lines, rules, and regulations as shall best protect the live stock industry of this State against Texas or splenic fever. It shall be the duty of said commission, upon receipt by them of reliable information of the existence among the domestic animals of the State of any malignant disease, to go at once to the place where any such disease is alleged to exist, and make a careful examination of the animals believed to be affected with any such disease, and ascertain, if possible, what, if any, disease exists among the live stock reported to be affected, and whether the same is contagious or infectious, and if said disease is found to be of a malignant, contagious or infectious character, they shall direct and enforce such quarantine lines and sanitary regulations as are necessary to prevent the spread of any such disease. And no domestic animal infected with disease, or capable of communicating the same, shall be permitted to enter or leave the district, premises, or grounds so quar-

antined, except by authority of the commissioners. The said commission shall also, from time to time, give and enforce such directions and prescribe such rules and regulations as to separating, feeding, and caring for such diseased and exposed animals as they shall deem necessary to prevent the animals so affected with such disease from coming in contact with other animals not so affected. And the said commissioners are hereby authorized and empowered to enter upon any grounds or premises to carry out the provisions of this act.

Sec. 4. When the commission shall have determined the quarantine lines and other regulations necessary to prevent the spread among domestic animals of Texas of any malignant, contagious, or infectious disease found to exist among the live stock of this State, or elsewhere, and given their orders as hereinbefore provided, prescribing quarantine and other regulations, they shall notify the Governor of the State of Texas, who shall issue his proclamation, proclaiming the boundary of such quarantine around such diseased stock, and the orders, rules and regulations prescribed by the commission; and such commission shall give such notice as may to them seem best to make the quarantine established by them effective.

Sec. 5. The commission provided for in this act shall have power to purchase such supplies and material as may be necessary to carry into full effect all orders by them given, as hereinbefore provided, which said supplies and material and wages, and expenses of the veterinarian hereinafter provided for, shall be paid out of the moneys hereinafter appropriated, on the warrant of the Comptroller, issued to said commissioners, upon their filing with the Comptroller an itemized account thereof, properly verified by affidavit: Provided, that no material or supplies may be purchased by the commissioners except such as may be necessary to carry into effect the quarantine and other regulations prescribed by them. And such commissioners shall have the power to employ a competent veterinarian to assist them in the investigation of the diseases amongst the live stock of this State whenever they may deem the services of one necessary: Provided, that the compensation of such veterinarian shall not exceed the sum of ten dollars per day and actual expenses while so employed: And provided further, that the expenditures for the compensation of veterinarians shall not exceed nine hundred dollars in any one year.

Sec. 6. It shall be the duty of the railway corporations doing business in the State to cleanse and disinfect the cars used by them in transporting live stock in or through this State, at such times and places as the commissioners may designate, whenever, in the opinion of the commissioners, any such order may be necessary to prevent the spread of infectious or contagious disease. Any such corporations violating the provisions of this section shall be liable to a penalty of five hundred dollars for each offense, to be recovered in a civil action, to be prosecuted under the direction of the Attorney General in the name of the State of Texas.

Sec. 7. It shall be the duty of any owner or person in charge of any domestic animal or animals, who discovers, suspects, or has reason to believe that any of his domestic animals, or domestic animals in his charge, are affected with any contagious or infectious disease, to immediately report such fact, belief, or suspicion to the commission and to the sheriff and county clerk of the county in which said domestic animals are found.

Sec. 8. Any person who shall knowingly bring into this State any domestic animal which is infected with any contagious or infectious disease, or any animal which has been exposed to any contagious or infectious disease, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than five hundred nor more than five thousand dollars.

Sec. 9. Any person who owns or is in possession of live stock, which is reported to be affected with any infectious or contagious disease, who shall refuse to allow the State live stock sanitary commissioners to examine such stock, or shall hinder or obstruct the said commissioners in any examination of, or in any attempt to examine, such stock, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than one hundred dollars nor more than five hundred dollars.

Sec. 10. Any person who shall have in his possession any domestic animal affected with any contagious or infectious disease, knowing such animal to be affected, who shall permit such animal to run at large, or who shall keep such animal where other domestic animals, not affected by or previously exposed to such disease, may be exposed to its contagion or infection, or who shall ship, drive, sell, trade, or give away such diseased animal or animals which have been exposed to such infection or contagion, or who shall move or drive any domestic animal in violation of any direction, rule, regulation, or order of the live stock sanitary commission of Texas establishing and regulating live stock quarantine, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than one hundred dollars nor more than five hundred dollars for each of such exposed or diseased domestic animals which he shall permit to run at large, or sell, ship, drive, trade, or give away in violation of the provisions of this act: Provided, that any owner of domestic animal which has been affected with or exposed to any contagious or infectious disease, may dispose of the same, after having obtained from the State live stock sanitary commissioners a bill of health for such animal or animals.

Sec. 11. The commissioners appointed by the Governor, as hereinbefore provided, shall receive five dollars per day for the time by them necessarily employed in the discharge of the duties required by this act; and said commissioners, hereinbefore provided for, shall receive in addition thereto the actual and necessary traveling expenses incurred by them and paid in the discharge of the duties required of them by the provisions of this act; which said per diem and expenses shall be drawn from the treasury on the warrant of the Comptroller, to be issued to said commissioners on their filing with the Comptroller an itemized account thereof, properly verified by affidavit.

Sec. 12. The live stock sanitary commission shall have power to call upon any sheriff, deputy sheriff or constable to execute their orders, and such officers shall obey the orders of said commissioners; and the officer or officers performing these duties shall each be entitled to two dollars and fifty cents per day for himself and horse, which payment shall be made upon a sworn account, approved by said commissioners: Provided, said expenses under this section shall not exceed in any event, five hundred dollars per annum.

Sec. 13. Except as otherwise provided in this act, any person who

shall violate, disregard, or evade, or attempt to violate, disregard, or evade any of the provisions of this act, or who shall violate, disregard, or evade, or attempt to violate, disregard, or evade any of the rules, regulations, orders, or directions of the live stock sanitary commission, establishing and governing quarantine, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than one hundred nor more than five thousand dollars.

Sec. 14. The sum of twenty thousand dollars, or so much thereof as may be necessary, is hereby appropriated, out of the general revenue fund not otherwise appropriated, for the purpose of carrying into effect the provisions of this act: Provided, that the exhaustion of the appropriation herein made shall terminate the liability of the State for the two years next following, and absolve it from any future claims of any and all persons who may have claims, real or pretended, under the provisions of this act.

Sec. 15. Any quarantine line that may be fixed by the live stock sanitary commission, against Texas or splenic fever, shall be so fixed as to conform to the Federal quarantine line established, or that may be established, by the United States Department of Agriculture: Provided, however, that as to the shipment or movement of live stock within the limits of the State, such quarantine lines, and the regulations in relation thereto, shall not apply from the 1st day of November to the 15th day of May of each year: Provided, the quarantine line now recognized and established by Federal authority within the State of Texas shall not be changed prior to December 1, 1893, but said line as is now established shall remain in full force until said date.

Sec. 16. No quarantine line shall be established at any time, nor regulations made in relation thereto, unless two of the live stock sanitary commissioners agree thereto.

Sec. 17. This act does not repeal any law in force for the protection of domestic animals, but is cumulative thereto.

Sec. 18. Whereas there is now no existing live stock quarantine law in the State of Texas, and whereas the people of this State, engaged in the honorable occupation of raising live stock, are now subject to harsh and severe Federal quarantine laws and regulations, which greatly depreciate the value of live stock in this State, creates an emergency, and an imperative public necessity and emergency exist requiring that the constitutional rule requiring bills to be read on three several days in each house be suspended, and it is hereby suspended.

Approved April 20, A. D. 1893.

CASTRO AND HARTLEY COUNTIES—DIMINISHING JURISDICTION OF COUNTY COURTS.

CHAP. 57.—[S. B. No. 229.] An act to diminish the civil and criminal jurisdiction of the county courts of Castro and Hartley counties, and to repeal all laws in conflict herewith.

Section 1. Be it enacted by the Legislature of the State of Texas: That the county courts of Castro and Hartley counties shall have and exercise the general jurisdiction of a probate court; shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards, grant letters testamentary and of administration, settle accounts of executors, administrators, and guardians, transact all business appertaining to the estates of deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the partition, settlement, and distribution of estates of deceased persons, and to apprentice minors, as provided by law, and issue all writs necessary for the enforcement of its own jurisdiction, to punish contempt under such provisions as are or may be provided by general law, governing county courts throughout the State; but the said county courts of Castro and Hartley counties shall have no other civil or criminal jurisdiction whatever.

Sec. 2. That the district courts of Castro and Hartley counties shall have and exercise jurisdiction in all civil and criminal matters and causes over which, by the laws of this State, the county courts of said counties would have jurisdiction, except as provided in section one of this act; and all causes other than probate matters, and such as are provided by section one of this act, be and the same are hereby transferred to the district courts of Castro and Hartley counties; and all writs and processes relating to any civil or criminal matters not included in the subject matters of jurisdiction prescribed in section one of this act, issued by or out of said county courts of Castro and Hartley counties, be and the same are hereby made returnable to the next term of the district court of said counties after this act takes effect.

Sec. 3. That the county clerks of Castro and Hartley counties be and they are hereby required, within thirty days after this act takes effect, to make a full and complete transcript of all entries upon their civil and criminal dockets, heretofore made in causes which by section two are required to be transferred to the district court of said counties, and deliver the same to the district clerk of said counties, together with all the papers to such causes pertaining, and a certified bill of costs in each case, and all such causes shall be immediately docketed by said district clerk, and such civil causes, so transferred, shall stand on the docket of said courts as appearance cases for the next succeeding term, and all criminal cases shall be docketed and disposed of in the same manner as if the same had originally been triable in said district courts, and all process now issued and returnable to said county courts shall be returnable to said district courts.

Sec. 4. That this act shall not be construed to in any manner affect judgments heretofore rendered by said county courts of Castro and Hartley counties, pertaining to matters and causes which, by section two of this act, are transferred to the district courts of said counties; but the county

clerks of said counties shall issue all executions and orders of sale as the judgments in such cases require, and such executions and orders of sale, and proceedings thereunder, shall be as valid and binding, to all intents and purposes, as though the change had not been made, as by section two therein contemplated.

Sec. 5. That all laws and parts of laws in conflict with this act be and the same are hereby repealed.

Sec. 6. The near approach of the close of the session of the Legislature, and the press of business before it, rendering it improbable that this bill can be read on three several days, and the great saving of expense to said counties by the passage of this bill, create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved April 26, A. D. 1893.

SPECIAL JUDGES IN COUNTY COURTS IN CIVIL AND PROBATE CASES.

CHAP. 58.—[S. B. No. 20.] **An act to amend article 1139 of title 28, chapter 1, of the Revised Civil Statutes of the State of Texas, and to add thereto articles 1139a, 1139b, and 1139c.**

Section 1. Be it enacted by the Legislature of the State of Texas: That article 1139 of title 28, chapter 1, of the Revised Civil Statutes of the State of Texas, be so amended as hereafter to read as follows, and to add thereto articles 1139a, 1139b, and 1139c:

Article 1139. When a judge of the county court is disqualified by any of the causes above stated, the parties may, by consent, appoint a proper person to try such case.

Article 1139a. Whenever a judge of the county court is disqualified to try a civil case pending in the county court, and the parties shall fail at the first term of the court to agree upon a special judge, it shall be the duty of the judge to certify to the Governor that he is disqualified to try such case, and the failure of the parties to agree upon a proper person to try the same, whereupon the Governor shall proceed to appoint some person, learned in the law, to try such case. But when a county judge is disqualified to act in probate matters in any cause, he shall forthwith certify his disqualification in such case to the Governor, whereupon the Governor shall appoint some person to act as special judge in said case, who shall act from term to term until such disqualification ceases to exist.

Article 1139b. Whenever any case or cases are called, or pending, in which the county judge, or the special judge chosen, as hereinbefore provided, shall be a party, or have an interest, or have been attorney, or of counsel, or otherwise disqualified from sitting in and trying the same, no transfer of or removal of shall be made necessary thereby, but the parties or their counsel shall have the right to select and agree upon an attorney of the court for the trial thereof; and if the parties or their attorneys shall fail to select or agree upon an attorney for the trial of such case at or before the time it is called for trial, or if the trial of the case is pending,

and the county judge should become unable to act, or is absent, and a special judge is selected who is disqualified to proceed with the trial, and the parties fail to select or agree upon a special judge who is qualified at once, it shall be the duty of the county judge or special judge presiding to certify the fact to the Governor immediately by telegram, mail, or otherwise, whereupon the Governor shall appoint a special judge, not so disqualified to try the same. The evidence of such appointment by the Governor may be transmitted by telegram, or otherwise. The special judge, after taking the oath of office prescribed by the Constitution, shall proceed to the trial or disposition of such case immediately, if the trial is pending, otherwise when called or reached, as in other cases. That any special judge agreed upon or appointed to try causes shall receive the same pay for his services as is now provided by law for county judges.

Article 1139c. Whenever a special judge is agreed upon by the parties, or is appointed by the Governor, for the trial of any particular cause, as above provided, the clerk shall enter in the minutes of the court as a part of the proceedings in such cause a record showing:

1. That the judge of the court was disqualified to try the cause; and
2. That such special judge [naming him] was by consent agreed upon by the parties to try the cause; or
3. That the parties having failed to agree upon a proper person to try the cause and the judge of the court having certified that fact to the Governor he had appointed such special judge [naming him] to try the cause; and

4. That the oath prescribed by law has been duly administered to such special judge: Provided that all cases heretofore transferred by the county court to the district court on account of the disqualification of the county judge shall be considered lawful and the district courts to which such causes have been transferred shall retain jurisdiction thereof.

Sec. 2. The fact that there is now no provision providing for the selection of special county judges when the county judge is disqualified, creates an imperative public necessity and an emergency requiring the suspension of the constitutional rule requiring bills to be read on three several days, therefore said constitutional rule is hereby suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved April 26, A. D. 1893.

JUDICIAL DISTRICT—TWENTY-NINTH.

CHAP. 59.—[S. B. No. 274.] An act to amend an act to designate what counties shall compose the twenty-ninth judicial district of the State of Texas, and to fix the times of holding courts therein, approved March 30, 1887, at the regular session of the Twentieth Legislature, amended February 15, 1889, amended March 5, 1889, so that the same shall hereafter read as follows:

Section 1. Be it enacted by the Legislature of the State of Texas: That the Twenty-ninth judicial district shall be composed of the counties of Palo Pinto, Hood, Somervell, Erath, Hamilton, and Coryell, and the terms of the district court shall be held therein each year as follows.

In the county of Palo Pinto, on the last Mondays in February and August, and may continue in session three weeks.

In the county of Hood, on the third Mondays in March and September, and may continue in session three weeks.

In the county of Somervell, on the fifth Monday after the first Mondays in March and September, and may continue in session two weeks.

In the county of Erath, on the seventh Mondays after the first Mondays in March and September, and may continue in session five weeks.

In the county of Hamilton, on the twelfth Mondays after the first Mondays in March and September, and may continue in session three weeks.

In the county of Coryell on the third Mondays in January and July, and may continue in session four weeks.

Sec. 2. All writs, process, and bonds, civil and criminal, which may be issued or executed up to the time this act takes effect, by or from the district courts of the several counties above named, or under order of said courts, and made returnable to the terms of said courts as they are now fixed by law, shall be returnable to the next ensuing terms of said courts in each county as they are prescribed by this act; and all such writs, process, and bonds above mentioned are hereby legalized and validated, to all intents and purposes, as if the same had been returnable to the term of said courts as the terms thereof are herein prescribed.

Sec. 3. The fact that this session is near its close and the great number of bills pending before both houses, creates an emergency requiring the suspension of the constitutional rule requiring bills to be read on three several days in each house, and said rule is hereby suspended, and this act shall take effect and be in force from and after its passage.

Approved April 26, A. D. 1893.

NONRESIDENTS—SUITS AGAINST.

CHAP. 60.—[S. B. No. 134.] An act to provide for determining the rights of nonresidents, persons unknown, and transient persons, to property in Texas.

Section 1. Be it enacted by the Legislature of the State of Texas: That **an action may be brought and prosecuted to final decree, judgment, or order, by any person claiming a right or interest in or to any property in this State, against any person or persons who are nonresidents of this State, or whose place of residence is unknown, or who are transient persons, who claim an adverse estate, or interest in, or who claim any lien or incumbrance on said property, for the purpose of determining such estate, interest, lien, or incumbrance, and granting the title to said property, or setting the lien or incumbrance thereon.**

Sec. 2. Such action may be maintained by any such person whether he is in actual possession of such property or not, and service on the defendant or defendants may be made by publication of the writ of notice of the same, as is now or hereafter may be provided by law for publication of citation against nonresidents, persons unknown, or transient persons.

Sec. 3. The pleadings in such case shall set forth the title of the complainant, as well as the claim of the defendant, if known, and such pro-

ceedings shall be had in such action as may be necessary to fully settle and determine the question of right or title in and to said property between the parties to said suit, and to decree the title or right of the party entitled thereto; and the court may issue the appropriate order to carry such decree, judgment, or order, into effect.

Sec. 4. No judgment by default shall be taken in such case by reason of the failure of the defendant to answer, but the facts entitling the plaintiff to judgment shall be exhibited to the court on the trial, and a statement of the facts shall be filed as may be provided by law in suits against nonresidents of this State where no appearance has been made by them.

Sec. 5. In case said suit shall be for the extinguishment of any lien or claim for money on said property that may be held by the defendant, the amount thereof, with interest, shall be ascertained by the court, and the same shall be deposited in the registry of the court, subject to be drawn by the defendant or defendants entitled thereto; but in such case no decree shall be entered until said sum is deposited, which fact shall be noted in said decree.

Sec. 6. The judgment of the court, in the cases mentioned, shall be received in evidence, under the rules governing evidence that may be established by law, and said judgment shall be binding on the parties thereto concerning the matters determined therein.

Sec. 7. The fact that there is now no law in the State providing for obtaining jurisdiction over nonresidents of the State and unknown persons in suits to quiet title and to remove cloud from title to real estate situated in the State of Texas, and the near approach of the close of the present session of the Legislature, and the large amount of business pending, create an emergency, and an imperative public necessity exists that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect from and after its passage, and it is so enacted.

Approved April 27, A. D. 1893.

DELTA COUNTY—DIMINISHING JURISDICTION OF COUNTY COURT.

CHAP. 61.—[H. B. No. 635.] An act to diminish the civil and criminal jurisdiction of the county court of Delta county, and to repeal all laws in conflict herewith.

Section 1. Be it enacted by the Legislature of the State of Texas: That the county court of Delta county shall have and exercise the general jurisdiction of a probate court, shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards, grant letters testamentary and of administration, settle accounts of executors, administrators, and guardians, transact all business appertaining to the estates of deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the partition, settlement, and distribution of estates of deceased persons, and to apprentice minors, as provided by law, and to issue all writs necessary for

the enforcement of its own jurisdiction, to punish contempt under such provisions as are or may be provided by general law governing county courts throughout the State; but the said county court of Delta county shall have no other jurisdiction, civil or criminal, whatsoever.

Sec. 2. That the district court of Delta county shall have and exercise jurisdiction in all civil and criminal matters and causes over which, by the laws of this State, the county courts of said county would have jurisdiction, except as provided in section 1 of this act; all causes other than probate matters, and such as are provided by section 1 of this act, be and the same are hereby transferred to the district court of Delta county, and all writs and processes relating to any civil or criminal matters not included in the subject matters of jurisdiction prescribed in section 1 of this act, issued by or out of said county court of Delta county, be and the same are hereby made returnable to the next term of the district court of said county, after this act takes effect.

Sec. 3. That the county clerk of Delta county be and he is hereby required, within thirty days after this act takes effect, to make a full and complete transcript of all entries upon his civil and criminal docket heretofore made in cases which, by section 2 of this act, are required to be transferred to the district court of said county, and deliver the same to the district clerk of said county, together with all the papers to such causes pertaining, and a certified bill of costs in each case, and all such causes shall be immediately docketed by said district clerk; and such civil causes so transferred shall stand on the docket of said court as appearance cases for the next succeeding term, and all criminal cases shall be docketed and disposed of in the same manner as if the same had been originally triable in said district court, and all process now issued and returnable to said county court shall be returnable to said district court.

Sec. 4. That this act shall not be construed to in any manner affect judgments heretofore rendered by said county court of Delta county, pertaining to matters and causes which, by section 2 of this act, are transferred to the district court of said county; but the county clerk of said county shall issue all executions and orders of sale, as the judgments in such cases require, and such executions and orders of sale, and proceedings thereunder, shall be as valid and binding, to all intents and purposes, as though the change had not been made, as by section 2 therein contemplated.

Sec. 5. That all laws and parts of laws in conflict herewith be and the same are hereby repealed.

Sec. 6. The near approach of the close of the session of the Legislature, and the large amount of business before it, rendering it improbable that this bill can be read on three several days, and the great saving of expense to said county by the passage of this bill, creates an emergency and an imperative public necessity, that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 17th day of April, A. D. 1893, but was not signed by him, nor returned to the house in which it originated, with his objections thereto, within the time prescribed by the Constitution, and thereupon became a law without his signature. Geo. W. Smith, Secretary of State.]

• ROADS—GUADALUPE COUNTY.

CHAP. 62.—[H. B. No. 657.] An act to create a more efficient road system in the county of Guadalupe; and auxiliary thereto, to provide for the appointment of road overseers, to define the powers and jurisdiction of the commissioners court with regard thereto, to utilize the labor of county convicts and defaulting poll tax payers on the public roads of said county, and to provide adequate penalties for the violation of the provisions of this act.

Section 1. Be it enacted by the Legislature of the State of Texas: That the commissioners court of Guadalupe county may appoint a road overseer for each commissioner's precinct in the county, or for each justice's precinct, who shall hold their offices for two years, and until their successors are qualified.

Sec. 2. The overseers so appointed shall perform all the duties required of overseers, under the general laws of this State, and such other duties as may be required of them by the commissioners court of said county, and shall receive such compensation as the commissioners court may prescribe, not [to] exceed two dollars per day for the time actually engaged.

Sec. 3. Each overseer shall, within twenty days after his appointment, take the constitutional oath, and enter into bond payable to the county judge, in such sum as may be fixed by the commissioners court, to be approved by the county judge, conditioned that he will well and faithfully discharge all of the duties incumbent upon him as such overseer, that he will promptly make all reports required of him by this act, or by the commissioners court, and that he will correctly disburse and account for all funds that may come into his hands according to law and the orders of the commissioners court, which bond shall not be void for want of form, or void on the first recovery, but may be sued upon until fully exhausted.

Sec. 4. The commissioners court may, for good cause, to be determined by themselves, at any time remove an overseer, and in case of vacancy from any cause, may fill the same for the unexpired term.

Sec. 5. Each overseer shall take charge of all tools, implements, teams, and supplies of any kind placed under his control by the commissioners court, and execute his receipt therefor, which shall be filed with the county clerk, and he shall be responsible for all such tools, teams, implements and supplies, and for the proper expenditure of all public moneys coming into his hands, and shall be liable for the loss, injury, or destruction of all such tools, teams, implements, and supplies, if the result of his negligence, or for the wrongful or unauthorized expenditure of such money; and upon the expiration of his term, or in case of his resignation or removal, he shall deliver all such money and property to his successor, or to such person as the commissioners court may direct.

Sec. 5a. The overseer of each precinct shall subdivide his precinct into as many sections as may be necessary or convenient, and shall require each person subject to road duty in his precinct to work upon the roads in the particular section in which he resides; and in order to have all road work more promptly and vigorously prosecuted, the overseer may appoint suboverseers in the several sections of his precinct, but the overseer himself shall exercise at all times a supervision over the different sections and suboverseers, and shall plan and direct all work to be done, and may re-

quire the suboverseers to warn all road hands subject to duty of the time and place of working, as is required by existing laws.

Sec. 6. The commissioners court shall require all able-bodied county convicts, not otherwise more profitably employed, to labor upon the public roads of the county, or upon the public streets of some city or town in the county, under such regulations as may be prescribed, and each convict so employed shall receive credit, first, upon the fine, and then upon the cost, of fifty cents per day for each day he may labor: Provided, that no convict shall be required to labor on Sunday, but shall, nevertheless, have the same credit as if he had labored on that day.

Sec. 7. The commissioners court may, at any regular term, allow the officers and witnesses in a convict case, where the convict is working upon the roads, such portions of their lawful cost as it may determine, not to exceed, in any case, the following: County judges, \$2.50; county attorneys, \$5, including commissions; county clerks and justices of the peace, \$2; sheriffs and constables, \$2.50; witnesses, twenty-five per cent of their legal fees; which allowance shall be paid out of the road and bridge fund, upon the warrant of the county judge, when said fine and cost shall have been worked out by the convicts, as provided in this act. The commissioners court may provide the necessary houses, prisons, food, clothing, bedding, medicine, medical attention, and guards necessary for the safe keeping and humane treatment of such convicts, and may grant a reasonable commutation of time to a convict, in consideration of faithful service and good behavior, such commutation in no case to exceed one-tenth of the entire time.

Sec. 8. The overseers may contract with any person subject to road duty in their precinct for the use of wagons and teams, and permit such person to discharge his road service in the hire of such wagon and team: Provided, he shall not allow more than \$2 per day for any wagon and team, nor more than \$3 per day for wagon and team and driver.

Sec. 9. It shall be the duty of each overseer to see that all roads, bridges, culverts, and drains in his precinct are kept in good repair; to see that every person subject to road duty in his precinct performs the service for which he is liable under the law, or that such service is in some way excused or commuted, as provided by law; to see that all mile posts and guide boards at the forks of roads are kept continuously up, and in good order, and when the same are removed or defaced, to immediately repair or replace them. He shall act as supervisor of roads in his precinct, and perform all duties as supervisor heretofore devolving upon the county commissioners, and the county commissioners of said county are hereby delivered from the duties prescribed by article 4390a of the Revised Civil Statutes.

Sec. 10. Each able-bodied male person, between the ages of twenty-one and forty-five years, resident of the county, except such persons as are exempt from road duty under the general laws of the State, shall be liable to labor on the public roads: Provided, that any one so liable may discharge said liability:

1. By furnishing a substitute who is acceptable to the overseer.

2. By paying to the overseer the sum of one dollar for each day he may be summoned to work, or by paying four dollars at any one time shall be discharged from all liability for the entire year, to end on December 31 of each year.

3. By producing to the overseer the certificate of a reputable practicing physician, certifying that the party is permanently or temporarily incapacitated for such physical labor as is necessary for road service.

4. By substituting wagons and teams, suitable and satisfactory to the road overseer, as provided in section 8 of this act.

Sec. 11. Every insolvent poll taxpayer, being resident of the county, who shall be indebted to the county on any unpaid county poll tax, and from whom the said poll tax can not be otherwise collected by law, shall be permitted to discharge the amount of such unpaid county poll tax in labor upon the public roads of his precinct, at the rate of one dollar per day; and in order to enforce the provisions of this section, the collector of taxes for the county shall be required, on or before the second ——— in February of every year, to furnish to the several overseers of the county the names of all the defaulting poll taxpayers, together with the amount of county poll tax due and unpaid by each, for which ex officio services, the collector shall be exempt from road duty; and it shall be the duty of the overseer, whenever any such person shall have discharged his county poll tax, as herein provided, to report the same back to collector, who shall credit the party on the poll tax roll, and report the same in his regular report to the commissioners court: Provided, that no fine or penalties shall be recovered of insolvent poll taxpayers for failure to work out their poll tax under the provisions of this act.

Sec. 12. Each road overseer shall make his report under oath to the commissioners court, every six months, giving an itemized statement of all moneys belonging to the road fund, which he has received, from whom received, and for what, and what disposition he made of the same; the condition of all the roads, bridges, culverts, and drains; the number and character of all mile posts and guide boards erected, and where the same are located; and such other information as the commissioners court may require, and may accompany said report with such suggestions as may seem to him pertinent, in regard to the public roads and the duties of the office.

Sec. 13. Any road overseer who shall willfully or negligently fail or refuse to comply with any provision of this act, or to perform any lawful and reasonable order of the commissioners court, or to discharge any duty imposed upon him by this act, or by any other existing law of the State not in conflict herewith, shall be deemed guilty of a misdemeanor, and on conviction thereof, in a court of competent jurisdiction, shall be punished by a fine of not less than ten nor more than one hundred dollars, such fine, when collected, to go into the road and bridge fund.

Sec. 14. Whenever it shall be necessary to occupy any private lands for the purpose of opening, widening, straightening, or draining any public road, or part thereof, if the owner of such land and the commissioners court can not agree upon the amount of damages to be paid, the county may proceed to condemn the same, in the same manner that a railway company can condemn land for right of way, and the same proceedings may be had and the same rights shall exist to each party as would exist if the proceedings were by a railroad company, except that the county shall in no case be required to give bond either forcost or on appeal.

Sec. 15. This act shall be cumulative of all general laws of the State on the subject of roads and bridges and employment of county convicts not in conflict herewith, and where not otherwise provided herein, such general laws shall apply, but in case of conflict with general laws, this

act shall govern, and the courts of the State shall have and take judicial cognizance of this act in the same manner and to the same extent as they are required to know and notice the general laws of the State.

Sec. 16. The vast amount of important business pending, and the fact that the roads of said county are in a deplorable condition for the want of a more efficient road law, creates an emergency, and an imperative public necessity exists that the constitutional rule requiring bills to be read on three several days be suspended and that this act take effect from and after its passage, and it is so enacted.

Approved April 28, A. D. 1893.

SPECIAL JUDGES IN COUNTY COURTS IN CRIMINAL CASES.

CHAP. 63.—[H. B. No. 213.] An act to amend article 573, chapter 4, title 7, of the Revised Code of Criminal Procedure of the State of Texas, and to add thereto articles 573a and 573b, providing for the appointment of special judge of the county court in criminal cases where the county judge is disqualified.

Section 1. Be it enacted by the Legislature of the State of Texas: That article 573, chapter 4, title 7, of the Revised Code of Criminal Procedure of the State of Texas, be and the same is hereby amended so as to hereafter read as follows, and that articles 573a and 573b be added thereto:

Article 573. When the judge of the county court is disqualified in any criminal case pending in the county court, the parties interested may, by consent, appoint a proper person to try said case, and if the parties shall fail to agree upon a special judge to try such case, on or before the third day of the term of the court at which said case may be called for trial, the county judge shall forthwith certify the facts to the Governor, who shall appoint some practicing attorney to try such case.

Article 573a. The attorney agreed upon or appointed as provided in the preceding article shall, before he enters upon his duties as special judge, take the oath of office required by the Constitution of the State, and his selection by the parties, or appointment by the Governor, as the case may be, and the fact that the oath of office was administered to him, shall be entered upon the minutes of the court as a part of the records of the cause, and he shall have all the power and authority of the county judge that may be necessary to enable him to conduct, try, and finally dispose of said case.

Article 573b. A special judge selected or appointed in accordance with the preceding articles shall receive the same compensation as now provided by law for regular county judges in similar cases.

Sec. 2. The fact that there is now no law in force providing for the selection of special judges of the county court in cases wherein the county judge is disqualified and the parties fail to agree upon a special judge, creates an emergency and an imperative public necessity requiring that the constitutional rule requiring that bills be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved April 28, A. D. 1893.

BONDS—REGULATING AND RESTRICTING THEIR ISSUANCE BY COUNTIES, CITIES AND TOWNS.

CHAP. 64.—[H. B. No. 643.] An act to regulate and restrict the execution of bonds by counties, cities, and towns, to prescribe a method by which all questions of irregularity in the execution of bonds shall be determined, to prescribe a rule of evidence in relation thereto, and to define and punish offenses committed in connection with the issuance of such bonds.

Section 1. Be it enacted by the Legislature of the State of Texas: That hereafter any county, city, or town, acting through its commissioners court, city council, or board of aldermen, as the case may be, in authorizing the execution of any bonds in pursuance of law, shall, at the same time, provide for the levy and collection of a tax annually of sufficient amount with which to pay the annual interest and a sinking fund with which to pay such bonded indebtedness at maturity.

Sec. 2. That hereafter no bonds executed by any county, city, or town shall bear a higher rate of interest than six per cent per annum, and shall not be sold at less than its par value and accumulated interest, exclusive of commissions.

Sec. 3. That hereafter no county, city, or town shall execute a bond to mature later than forty years from the date of its execution.

Sec. 4. That any county, city, or town, in the State of Texas, desiring to issue bonds as authorized by the Constitution and laws of this State, shall, before such bonds are offered for sale, forward to the Attorney General the bonds to be issued, a certified copy of the order, or ordinance, levying the tax to pay interest and provide a sinking fund, with a statement of the total bonded indebtedness of such county, city, or town, including the series of bonds proposed, and the assessed value of property for purposes of taxation, as shown by the last official assessment, of such county, city, or town, together with such other information as the Attorney General may require; whereupon it shall be the duty of the Attorney General to carefully examine the said bonds in connection with the facts and the Constitution and laws on the subject of the execution of such bonds, and if, as a result of such examination, the Attorney General shall find that such bonds were issued in conformity with the Constitution and laws, and that they are valid and binding obligations upon such county, city, or town by which they are executed, he shall so officially certify.

Sec. 5. That when said bonds have been examined by the Attorney General and his certificate attached thereto, they shall be registered by the Comptroller, in a book to be kept for that purpose, and the certificate of the Attorney General to the validity of such bonds shall be preserved of record, for use in the event of litigation.

Sec. 6. That such bonds, after receiving the certificate of the Attorney General, and having been registered in the Comptroller's office, as provided herein, shall thereafter be held, in every action, suit, or proceeding in which their validity is or may be brought into question, *prima facie* valid and binding obligations. And in every action brought to enforce collection of such bonds, the certificate of the Attorney General, or a duly certified copy thereof, shall be admitted and received in evidence of the validity of such bonds, together with the coupons thereto attached: Provided, the only defense which can be offered against the validity of said

bonds shall be for forgery or fraud. But this section shall not be construed to give validity to any such bonds as may be issued in excess of the limit fixed by the Constitution, or contrary to its provisions, but all such bonds shall, to the extent of such excess, be held void.

Sec. 7. If any mayor, county judge, tax assessor, or any other officer or person, for the purpose of securing the certificate of the Attorney General, provided for in this act, shall knowingly make or be concerned in making or forwarding to the Attorney General, a false certificate as to the amount of the taxable value of the property in such county, city, or town, as shown by the last official assessment, or knowingly or falsely certify as to the amount of indebtedness of such county, city, or town, or the rate of tax levied to provide interest and sinking fund for such indebtedness, or other facts required by the Attorney General, he shall be guilty of a felony, and upon conviction therefor shall be punished by confinement in the penitentiary not less than one nor more than five years.

Sec. 8. Nothing in this act shall be construed to apply to the issuance of any bonds in cases where provisions for their issuance have been made, in whole or in part, before the passage of this act.

Sec. 9. That all laws and parts of laws in conflict herewith be and the same are hereby repealed.

Sec. 10. Whereas the near approach of the close of the present session of the Legislature and the crowded condition of the calendar, and the importance of having a law regulating and restricting the issuance of bonds by counties, cities, and towns, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and it is so ordered.

Approved April 29, A. D. 1893.

SAN PATRICIO COUNTY—RESTORING CIVIL AND CRIMINAL JURISDICTION OF COUNTY COURT.

CHAP. 65.—[H. B. No. 681.] An act to restore to and confer upon the county court of San Patricio county the civil and criminal jurisdiction formerly belonging to said county under the Constitution and general statutes of the State, and to conform the jurisdiction of the district court of said county to said change.

Section 1. Be it enacted by the Legislature of the State of Texas: That the county court of San Patricio county shall hereafter have exclusive original jurisdiction in civil and criminal cases where the matter in controversy shall exceed in value two hundred dollars, exclusive of interest, and shall have concurrent jurisdiction with the district court of said county where the matter in controversy shall exceed five hundred dollars and not exceed one thousand dollars.

Sec. 2. Said county court shall have appellate jurisdiction in civil and criminal cases over which justices courts have original jurisdiction, when the judgment of the court appealed from or the amount in controversy shall exceed twenty dollars; and said county court shall have power to hear and determine cases brought up from the justice court by certiorari under the provisions of the title of the Revised Civil Statutes relating thereto.

Sec. 3. The county judge of said county shall have authority, either in term time or vacation, to grant writs of mandamus, injunction, sequestration, garnishment, attachment, certiorari, supersedeas, and all other writs necessary to the enforcement of the jurisdiction of the said court, and shall also have power to issue writs of habeas corpus in all cases in which the Constitution has not exclusively conferred the power on the district court or the judge thereof.

Sec. 4. Said county court shall have jurisdiction in the forfeiture and judgment on all bonds and recognizances taken in criminal cases of which criminal cases said court has jurisdiction.

Sec. 5. Said county court shall have exclusive original jurisdiction of all misdemeanors involving official misconduct and except cases in which the highest penalty or fine that may be imposed under the law may not exceed two hundred dollars; and said court shall also have appellate jurisdiction in criminal cases of which justices of the peace and other inferior tribunals of said county have original jurisdiction.

Sec. 6. The district court of San Patricio county shall no longer have jurisdiction in cases in which the county court of said county by the provisions of this act, have exclusive original or appellate jurisdiction; and it shall be the duty of the clerk of the district court of San Patricio county, within thirty days from the passage of this act, to make a full and complete transcript of all orders on his docket, in cases now pending before the said district court of which cases, by the terms of this act, exclusive jurisdiction is given to the county court, and to deliver said transcript, together with the original papers and certified bill of costs, to the clerk of said county court, and said county clerk shall enter said case or cases on his docket for trial by said county court.

Sec. 7. The county court of said county shall hereafter hold its regular terms of civil or criminal business as provided in the Constitution and general laws of the State, and process heretofore issued from the district court of said county in cases to be transferred under this act to the county court shall be returnable to the first term of the county court, and all civil cases transferred shall be entered as appearance cases upon the docket of said county court.

Sec. 8. The county court of said county of San Patricio shall have, as now, the general jurisdiction of probate courts for the probate of wills, appointment of guardians of minors, idiots, and lunatics, persons non compos mentis and common drunkards, and for the issuance of letters testamentary and of administration, settlement of accounts of administrators and guardians, and the settlement and distribution of decedents' estates, and the apprenticeship of minors, and all other necessary powers conferred by law on courts of probate.

Sec. 9. All laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed, in so far as they relate to San Patricio county.

Sec. 10. The great necessity for this law creates an imperative public necessity and emergency requiring the constitutional rule that bills be read on three several days in each house be suspended, and the same is therefore suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved April 28. A. D. 1893.

RAILROADS—DUTIES OF AT CROSSINGS.

CHAP. 66.—[S. B. No. 146.] An act to amend chapter 10, title 84, article 4232, of the Revised Statutes of the State of Texas, as amended by an act approved March 21, 1883.

Section 1. Be it enacted by the Legislature of the State of Texas: That chapter 10, title 84, article 4232, of the Revised Statutes of the State of Texas, as amended by an act approved March 21, 1883, be amended so as to read as follows:

Article 4232. A bell of at least thirty pounds weight and a steam whistle shall be placed on each locomotive engine, and the whistle shall be blown and the bell rung at the distance of at least eighty rods from the place where the railroad shall cross any public road or street, and that such bell shall be kept ringing until it shall have crossed such public road, or stopped; and each locomotive engine approaching a place where two lines of railway cross each other, shall, before reaching such railway crossing, be brought to a full stop; and any engineer having charge of such engine, and neglecting to comply with any of the provisions of this act, shall be fined in any sum not less than five nor more than one hundred dollars for such neglect, and the corporation operating such railway shall be liable for all damages which shall be sustained by any person by reason of any such neglect: Provided, however, that the full stop at such crossings may be discontinued when the railroads crossing each other shall put into full operation at such crossing an interlocking switch and signal apparatus, and shall keep a flagman in attendance at such crossings.

Approved May 1, A. D. 1893.

HUNTING AND FISHING—PROHIBITED ON ENCLOSED LANDS OF ANOTHER.

CHAP. 67.—[S. S. B. No. 66.] An act to amend sections 1 and 2 of an act entitled an act to prevent fishing and hunting on the enclosed lands of another, approved March 31, 1885.

Section 1. Be it enacted by the Legislature of the State of Texas: That sections 1 and 2 of an act entitled an act to prevent fishing and hunting on the enclosed lands of another, approved March 31, 1885, be so amended as to read as follows:

Section 1. That any person who shall enter upon the enclosed lands of another, not exceeding in area two thousand acres, without the consent of the owner, proprietor, or agent in charge, and therein hunt with fire-arms or dogs, or therein catch any fish from any artificial pond, lake, or tank, shall be punished by fine not less than twenty-five nor more than one hundred dollars. No one shall be liable to the penalty herein provided, unless the owner or proprietor of such enclosure shall, at each entrance thereto, keep a board in a conspicuous place, with the word "posted" plainly marked thereon, which shall constitute posting within the meaning of this act, or shall give notice in some newspaper published in the county where such enclosure is located, and cause a copy of such

paper containing such notice to be kept on file in the county clerk's office of the county where the enclosure is situated: Provided, if no newspaper is published in the county, then the notice may be published in a newspaper published nearest to such county: Provided further, that this section shall not be so construed as to prevent or restrict the right of any person to pass through such enclosure on any public or private road therein: And provided, that no prosecution shall take place or be instituted under the provisions of this act, except at the instance or upon the written request of the owner or owners of the land, or his or their agent.

Section 2. That it shall be unlawful for any professional hunter to enter upon the enclosed lands of another, without the consent of the owner, proprietor, or agent in charge, and therein hunt with firearms or dogs for, or kill any game for the purpose of sale or market, and any person so offending shall be punished by a fine not less than one hundred nor more than two hundred dollars. A professional hunter, under this section, is any person who kills any game for sale or market, or kills any game for the hide or hides thereof.

Sec. 2. The crowded condition of the calendar, and the near approach of the day of adjournment creates an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and said rule is hereby suspended.

Approved May 1, A. D. 1893.

COMMUNITY PROPERTY.

CHAP. 68.—[S. B. No. 138.] An act to amend articles 2165, 2166, 2167, and 2181, and to add articles 2181a, 2183a, and 2183b to chapter 28 of the Revised Civil Statutes of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas: That articles 2165, 2166, 2167, and 2181 of chapter 28 of the Revised Civil Statutes of the State of Texas shall hereafter read as follows, and that articles 2181a, 2183a, and 2183b, as hereinafter set out, shall be added to said chapter:

Article 2165. Where the husband or wife dies intestate, or becomes insane, having no child or children, and no separate property, the common property passes to the survivor, charged with the debts of the community, and no administration thereon or guardianship of the estate of the insane wife or husband shall be necessary.

Article 2166. Where the wife dies or becomes insane, leaving a surviving husband and child, or children, the husband shall have the exclusive management, control and disposition of the community property in the same manner as during her lifetime, or sanity, and it shall not be necessary that the insane wife shall join in conveyances of such property, or her privy examination and acknowledgment be taken to such conveyances, subject, however, to the provisions of this chapter.

Article 2167. The husband shall, within four years after the death of the wife, or her being declared insane, as provided by law, when there is a child, or children, file a written application in the county court of the proper county, stating:

1. The death of his wife, or that she has been declared insane by a court of competent jurisdiction, and the time and place of her death or of such declaration.

2. That she left a child or children, giving the names, sex, residence, and age of each child.

3. That there is a community estate between the deceased or insane wife and himself.

4. Such facts as show the jurisdiction of the court over the estate.

5. Asking for the appointment of appraisers, to appraise such estate.

Article 2181. The wife may retain the exclusive management, control, and disposition of the community property of herself and deceased or insane husband, in the same manner and subject to the same rights, rules, and regulations as provided in the case of the husband, and until she shall, in the event of the death of the husband, marry again.

Article 2181a. The use of the words "survivor" or "surviving" in the above and foregoing articles of this chapter, where no other designation is given, shall be held to apply as well to a sane person representing an insane person.

Article 2183a. Whenever such insane husband or wife shall have recovered sanity, then all action hereunder shall cease, and a report shall be made under oath of all transactions had and done under said proceedings, and said report shall be filed and recorded in the court where such proceedings were had, and with the other papers of the case.

Article 2183b. Persons now acting as guardians of the estate of persons of unsound mind, shall turn over the estates of their wards, where the wards shall be married persons, upon the qualification of the sane spouse, as provided in this chapter.

Approved May 1, A. D. 1893.

COURTS OF CIVIL APPEALS—REGULATING PRACTICE WHEN VERDICTS AND JUDGMENTS ARE HELD EXCESSIVE.

CHAP. 69.—[S. S. B. No. 25.] An act to regulate the practice in the Courts of Civil Appeals of the State of Texas, in relation to reversal of cases when verdicts and judgments are held excessive, and to require such court to indicate the amount of such excess, and to provide for filing remittiturs, and to define the effect thereof.

Section 1. Be it enacted by the Legislature of the State of Texas. That in all civil cases, now pending, or that may hereafter be appealed to any court of civil appeals of this State, and such court shall be of the opinion that the verdict and judgment of the trial court is excessive, and for that reason only said cause should be reversed, then it shall be the duty of such court of civil appeals to indicate to the party in whose favor such judgment was rendered, or his attorneys of record, the amount of the excess of such verdict and judgment, and said court shall, at the same time, indicate to such party, or his attorney, within what time he may file a remittitur of such excess, and if such remittitur shall be so filed, then the court shall reform and affirm such judgment in accordance therewith; if not filed as indicated, then to be reversed.

Sec. 2. Whenever any court of civil appeals shall indicate that a verdict is excessive, as hereinbefore provided, and no remittitur shall be filed, as herein provided, no evidence shall be allowed nor allusion made, in any subsequent trial, of the action of such court of civil appeals in reference to the amount of excess of such verdict.

Sec. 3. Whereas, there are now many cases pending in the courts of civil appeals to be affected by this act, and many will be appealed within the next few months, therefore an imperative public emergency and necessity exist that the constitutional rule requiring bills to be read on three several days be suspended, and the same is hereby suspended, and this act take effect from and after its passage.

Approved May 1, A. D. 1893.

TAX COLLECTORS.

CHAP. 70.—[H. B. No. 405.] An act to amend articles 4742, 4743, 4743a, and 4744 of the Revised Civil Statutes of the State of Texas, and to repeal articles 4761, 4762, 4763, 4764, 4765, and 4766 of the Revised Civil Statutes of the State of Texas, and to repeal all laws in conflict herewith, and to provide penalties for violations of this act.

Section 1. Be it enacted by the Legislature of the State of Texas: That articles 4742, 4743, 4743a, and 4744 of the Revised Statutes of the State of Texas be so amended as to hereafter read as follows:

Article 4742. 1. At the end of each month the collector of taxes shall, on forms to be furnished by the Comptroller of Public Accounts, make an itemized report under oath to the Comptroller, showing each and every item of ad valorem, poll, and occupation taxes collected by him during said month, accompanied by a summarized statement showing full disposition of all State taxes collected.

2. He shall present such report, together with the tax receipt stubs, to the county clerk, who shall within two days, compare said report with said stubs, and if same agree in every particular as regards names, dates, and amounts, he (the clerk) shall certify to its correctness, for which examination and certificate he shall be paid by the commissioners court twenty-five cents for each certificate and twenty-five cents for each two hundred tax payers on said report.

3. The collector of taxes shall then immediately forward his reports so certified to the Comptroller, and shall pay over to the State Treasurer all moneys collected by him for the State during said month, excepting such amounts as he is allowed by law to pay in his county, reserving only his commissions on the total amount collected; and to enable him to do so he may, at his own risk, send the same to the State Treasurer at the least cost to the State, on which he shall be allowed credit by the Comptroller upon filing receipts showing actual amount of exchange paid: Provided, that the State Treasurer shall accept no payment other than money orders or direct cash payments, which may be made through express companies, banks, or any other source. The State Treasurer whenever he may receive a remittance from a collector of taxes shall promptly pay the money so remitted into the State Treasury, on the deposit warrant of the

Comptroller, and the money when so deposited shall be a credit to the said collector of taxes.

4. The collector of taxes shall pay over to the State Treasurer all balances in his hands belonging to the State, and finally adjust and settle his account with the Comptroller on or before the first day of May of each year; and to enable him to do so, the commissioners court shall convene on or before the third Monday in April for the purpose of examining and approving his final settlement papers.

4a. The allowance of a delinquent and insolvent list to the collector, in accordance with article 4744, shall not absolve any taxpayer or property thereon from the payment of taxes, but it shall be the duty of the collector to use all necessary diligence to collect the amounts due thereon, after it is allowed by the commissioners court, and he shall issue special tax receipts therefor, to be furnished by the Comptroller, which blank receipts shall be numbered and charged to the collector, who shall account for same at his next annual settlement, in the same manner as occupation tax receipts; he shall also make itemized monthly reports of such collections, using special blanks for that purpose.

5. To enforce the prompt and speedy collection and remittance of taxes, and to provide for the proper accounting of same, the Comptroller shall prescribe and furnish the forms to be used by collectors of taxes, and the mode and manner of keeping and stating their accounts, and shall adopt such regulations as he may deem necessary in regard thereto. It shall be his imperative duty to enforce a strict observance of all the provisions of these articles.

6. Any collector of taxes failing to promptly comply with the requirements of these articles, or of article 4744, shall be fined in a sum not less than three hundred nor more than one thousand dollars, and each failure to make the required monthly or annual report or remittance of the amounts shown therein to be due, shall constitute a separate offense.

7. That any collector of taxes in this State who shall issue an occupation tax receipt upon any blank paper, or blank of any kind whatever other than the blank occupation tax receipt furnished to him as required by law, shall be deemed guilty of a misdemeanor, and each receipt so unlawfully issued shall constitute a separate offense, and upon conviction in any court of competent jurisdiction, shall be punished by fine of not less than one hundred dollars nor more than five hundred dollars.

8. It shall be the duty of the Comptroller to notify the district attorney of the district, or the county attorney of the county in which the collector resides, and the sureties on the bond of the collector, of any such failure to comply with any of the provisions of this article.

Article 4743. 1. The collector of taxes shall at the end of each month make like reports to the commissioners court of all the collections made for the county, conforming as far as applicable and in like manner to the requirements as to the collection and report of taxes collected for the State. The county clerk shall likewise, within two days after the presentation of said report by the collector, examine said report and stubs, and certify to their correctness as regards names, dates, and amounts, for which examination and certificate he shall be paid by the collector of taxes fifty cents each month, which amount shall be allowed to the collector by the commissioners court.

2. The clerk shall file said report intended for the commissioners

court, together with the tax receipts stubs, in his office for the next regular meeting of the commissioners court.

3. The collector of taxes shall immediately pay over to the county treasurer all taxes collected for the county during said month, after reserving his commissions for collecting the same, and take receipts therefor, and file with the county clerk.

4. At the next regular meeting of the commissioners court, the collector of taxes shall appear before said court and make a summarized statement, showing the disposition of all moneys, both of the State and county, collected by him during the previous three months. Said statement must show that all taxes due the State have been promptly remitted to the State treasury at the end of each month, and all taxes due the county have been paid over promptly to the county treasurer and shall file proper vouchers and receipts showing same.

5. The commissioners court shall examine such statement and vouchers, together with the itemized report and tax receipt stubs filed each month, and shall compare the same with the tax rolls and tax receipt stubs. If found correct in every particular, and if the collector of taxes has properly accounted for all taxes collected, as provided above, the commissioners court shall enter an order approving said report, and the order approving same shall be recorded in the minutes, as other proceedings of said court.

6. The collector of taxes shall finally adjust and settle his account with the commissioners court for the county taxes collected, at the same time and in the same manner as is provided in the foregoing article in his settlement with the State.

7. If any county clerk refuse to make the examinations and certificates, as required in the foregoing articles, he shall be fined not less than fifty nor more than two hundred dollars for each failure to do so.

Article 4743a. 1. If any collector of taxes shall have failed at the end of each month, or within three days thereof, to promptly remit to the State treasurer the amount due by him to the State, or pay over to the county treasurer the amount due by him to the county, the commissioners' court, at the next regular meeting, shall ascertain the facts, and if the collector of taxes fails or refuses to pay or remit the same and file proper vouchers therefor, as provided in the foregoing article, the commissioners' court shall not approve his reports and accounts, but shall ascertain the amounts due by him, both to the State and county, and enter an order requiring him to pay the same to the proper treasurers, as is provided in article 4769a, sections 1 and 2, of the Revised Statutes, and notify such collector, as is provided for in article 4769a, section 3, under penalty for failure to do so, in section 4 of said article.

2. Whenever the collector of taxes shall fail or refuse to remit to the State Treasurer the amounts due the State, when requested, the Comptroller shall notify him under article 4769a, sections 3, 4, 5, and 7.

Article 4744. The collector of taxes shall make out on forms, to be furnished for that purpose by the Comptroller of Public Accounts, between April 1 and 15 of each year, lists of delinquent or insolvent taxpayers, the caption of which shall be the "list of delinquent or insolvent taxpayers." In this list he shall give the name of the person, firm, company, or corporation from whom the taxes are due, in separate columns, and he shall post one copy of these delinquent or insolvent lists at the

court house door of the county, and one list at the court house door, or where court is usually held, in each justice precinct in his county; and the collector of taxes, upon the certificate of the commissioners court that the persons appearing on the insolvent or delinquent lists have no property out of which to make the taxes assessed against them, or that they have moved out of the county, and that no property can be found in the county belonging to such persons, out of which to make the taxes due, shall be entitled to a credit on final settlement of his accounts for the amounts due by the persons, firms, companies, or corporations certified to by the commissioners court, as above provided for.

Sec. 2. Articles 4761, 4762, 4763, 4764, 4765 and 4766 of the Revised Statutes, and all other laws and parts of laws in conflict with this act, are hereby repealed.

Sec. 3. The fact that the time for annual settlements of collectors is near at hand, and the law is inadequate regarding reports and remittances from collectors, creates an emergency and an imperative public necessity requiring the suspension of the constitutional rule requiring bills to be read on three several days, and the same is hereby suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved May 1, A. D. 1893.

ROADS—NACOGDOCHES COUNTY.

CHAP. 71.—[H. B. No. 647.] An act to authorize the commissioners court of Nacogdoches county to lay out and condemn land for right of way, and to establish and maintain a first class road around Orton's Hill, in Nacogdoches county.

Section 1. Be it enacted by the Legislature of the State of Texas: That the commissioners court of Nacogdoches county shall have the power to lay out and condemn land for right of way, and establish and maintain a first class public road, leading from the corporate limits of the town of Nacogdoches, in said county, around a steep hill, known as Orton's Hill, in the direction of the town of San Augustine, in San Augustine county, and to intersect the main public road leading from said town of Nacogdoches to the town of San Augustine at a suitable point, after passing around said hill.

Sec. 2. That said commissioners court shall proceed to lay out said road, and condemn sufficient land for a right of way over same, and to establish and maintain said road in the manner prescribed under the general road law of this State.

Sec. 3. Whereas, the near approach of the close of the session of the Legislature, and the great number of bills now pending make it doubtful whether this bill will be reached, and that there is now no adequate law authorizing said court to lay out and condemn land for right of way to establish and maintain said road, therefore an imperative public necessity exists for the suspension of the constitutional rule requiring bills to be read on three several days, and said rule is suspended; and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 18th day of April, A. D. 1893, but was not signed by him, nor returned to the house in which it originated, with his objections thereto, within the time prescribed by the Constitution, and thereupon became a law without his signature. Geo. W. Smith, Secretary of State.]

**ROADS—CAMERON, HARRIS, FAYETTE, DALLAS, BRAZOS,
CORYELL, BEXAR, ROCKWALL, AND ELLIS COUNTIES.**

CHAP. 72.—[H. B. No. 682.] An act to authorize and create a more efficient system of public roads and bridges for Cameron, Harris, Fayette, Dallas, Brazos, Coryell, Bexar, Rockwall, and Ellis counties, for the issuance of bonds by said counties for the purpose of constructing permanent public roads, to authorize the investment of the permanent school fund of the State and of said counties in such bonds, to provide for and limit the expenditure of the moneys arising from the sale of such bonds, and to prescribe and define the powers and duties of the commissioners court in reference thereto.

Section 1. Be it enacted by the Legislature of the State of Texas: That the county commissioners courts of Cameron, Harris, Fayette, Dallas, Rockwall, Brazos, Coryell, Bexar, and Ellis counties, State of Texas, may, as hereinafter provided, build or construct, or cause to be built or constructed, in said counties, lasting or permanent county roads and bridges of some permanent or durable material, to be selected and agreed upon by said commissioners courts, and may also construct drains or ditches to carry off the waters from such road or roads, and from lands adjacent thereto, whenever and wherever same can be done without conflicting with the rights of private property owners, and may take and condemn any land or lands necessary for the purpose of constructing roads or drains under its general powers of eminent domain.

Sec. 2. Whenever the commissioners courts of said counties shall deem it necessary or expedient to build or construct any public roads and bridges of the character herein provided for, they shall pass a resolution, which may be done at any regular or special meeting of said courts, setting forth that it is the sense of said commissioners court that public roads and bridges of a lasting or permanent nature should be constructed or built in said county, and that the county should issue its bonds to raise money for that purpose. Said resolution shall be submitted to a vote of the property owners of said counties at any regular or special election, which may be ordered by the commissioners court for that purpose; and if at such election, a majority of the votes cast shall be for said resolution, the same shall be adopted, but if a majority of votes cast at such election shall be against said resolution it shall be rejected. Such election shall be governed in all respects by the laws governing elections in this State, and the returns shall be made and canvassed in the same manner, and result declared by proclamation of the county judge, which proclamation shall be posted in at least three public places in said counties, and at the option of the commissioners court published in some newspaper in said counties.

Sec. 3. No person shall be permitted to vote at any election as provided for in section 2 of this article, unless he is a property owner and taxpayer in said counties of Harris, Fayette, Cameron, Dallas, Rockwall,

Brazos, Coryell, Bexar, or Ellis, and unless he is otherwise a qualified voter of said county. Those desiring to vote for the resolution shall have written or printed on their tickets the words, "For the resolution to issue bonds to build permanent county roads and bridges," and those desiring to vote against the resolution shall have written or printed on their tickets the words, "Against the resolution to issue bonds to build permanent county roads and bridges." Such tickets shall be written or printed on plain white paper with black ink, and shall contain no distinguishing mark or device, except the words above set out, and if printed, shall be in type of uniform size and face.

Sec. 4. If, at the election herein provided for, a majority of the qualified voters at such election shall vote in favor of the resolution provided for in section 2 of the act, and after the commissioners court has canvassed the said vote and declared the result, and after the proclamation of the county judge declaring said result has been posted for at least thirty days, it shall be the duty of the county commissioners court, under the supervision and direction of the Comptroller of this State, to prepare and execute the bonds of the county for such sums as may be deemed advisable by said commissioners courts, said bonds to bear not exceeding five per cent interest, payable annually, and which shall be redeemable in not less than ten years and not more than forty years from the date thereof, the maturity to be expressed on the face of the bonds, and shall have the same registered or enrolled, as in the case of other county bonds, and the same shall not be sold or negotiated at less than their face or par value: Provided, that in no case shall said county issue bonds under this act for a greater sum or amount than a levy of fifteen cents on the hundred dollars property valuation of such county will yield sufficient revenue to pay the interest as it accrues, and will at the same time create a sinking fund sufficient to pay the principal at maturity.

Sec. 5. When the bonds of the county are issued and sold under the provisions of this act, it shall be the duty of the county commissioners court of said county to levy an annual ad valorem tax on all property of the county, which tax, when collected, shall be used only for the purpose of paying the interest on the county road and bridge bonds, and create a sinking fund to pay the principal of same; and after the adoption of the resolution as herein provided for, it shall be unlawful for the county commissioners court to transfer any funds from the road and bridge fund to any other fund of said county, or to divert the funds arising from the sale of such bonds, or any funds that may be derived from the road and bridge tax of said county, to any other purpose than the construction and maintenance of county roads and bridges. Should the commissioners court of said counties divert any funds contrary to the provisions of this act, they and each member of said court so acting or voting shall be deemed guilty of malfeasance in office, and on conviction shall be punished by a fine of two hundred dollars, and may be removed from office.

Sec. 6. Whenever there shall be or remain in the treasury of this State any moneys to the credit of the permanent school fund, uninvested, the State Board of Education is authorized and empowered to lend the same to said county, when it shall have complied with the foregoing provisions of this act, by purchasing at par value the permanent road and bridge bonds of said county, when satisfactory evidence is presented to said

board that all the provisions of this act have been complied with. And the State Board of Education shall have the preference to purchase said permanent road and bridge bonds, when there is sufficient permanent school funds in the treasury, and they are satisfied that all requirements of law in reference to the issuing of said bonds have been complied with. Should there not be sufficient money in the treasury to the credit of the permanent school funds to purchase the whole issue of such county road and bridge bonds, then the State Board of Education may purchase said bonds to the extent of the funds on hand, or the county commissioners court may, at their option, place said issue of bonds elsewhere, as to them may seem best for the interest of the county; and in like manner, the county permanent school fund may be invested in such county bonds, and whenever said county shall have on hand permanent school funds uninvested, said county shall have the preference to invest said funds in the road and bridge bonds of said county.

Sec. 7. The moneys arising from the sale of the bonds herein provided for shall not be used for any other purpose than the construction of durable and permanent county roads and bridges, and the purchase of material therefor, and any county commissioners court, or any county commissioner, or any other person, who shall misapply or convert same or any part thereof to any other purpose than the one named, shall be deemed guilty of malfeasance in office, and on conviction shall be punished as hereinbefore provided for that offense.

Sec. 8. All roads and bridges built under the provisions of this act shall be laid out and constructed under the supervision of the county commissioners court, and a competent civil engineer, the county surveyor, or other competent person, to be employed by the county for that purpose.

Sec. 9. That all laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

Sec. 10. The great importance to the counties of Cameron, Harris, Fayette, Dallas, Rockwall, Coryell, Bexar, and Ellis of the passage of this act, and the near approach of the close of the present session of the Legislature, and the crowded condition of the calendar, create an emergency and an imperative public necessity requiring the suspension of the constitutional rule requiring bills to be read on three several days in each house be suspended, and said rule is so suspended; and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 18th day of April, A. D. 1893, but was not signed by him, nor returned to the house in which it originated, with his objections thereto, within the time prescribed by the Constitution, and thereupon became a law without his signature. Geo. W. Smith, Secretary of State.]

RAILROADS—PRESCRIBING HOW AND BY WHOM TICKETS MAY BE SOLD.

CHAP. 73.—[S. B. No. 243.] An act prescribing how and by whom tickets on railroads shall be sold, and providing for the redemption of tickets and parts of tickets unused; and prescribing penalties for the violation of this act.

Section 1. Be it enacted by the Legislature of the State of Texas: That it shall be the duty of all railroad companies doing business in this State, or the receiver of any such railroad company, through their duly authorized officers, to provide each agent who may be authorized to sell tickets or other evidences entitling the holder to travel upon any such railroad, with a certificate setting forth the authority of such agent to make such sale. Such certificate shall be duly attested by the corporate seal of such railroad company, or the signature of the receiver, if any there be, of such railroad company, or by the signature of the officer whose name is signed upon the tickets or coupons which such agent may be authorized to sell.

Sec. 2. That it shall not be lawful for any person not possessed of such authority to sell, barter, or transfer; for any consideration whatever, the whole or any part of any ticket or tickets, passes, or other evidences of the holder's right to travel on any railroad within this State.

Sec. 3. That any person or persons violating the provisions of the second section of this act shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by fine not exceeding five hundred dollars (\$500.00); and every such sale shall constitute a separate offense: Provided, that the provisions of this section shall not apply to any person holding a ticket upon which there is not a notice, plainly printed, that it is a penal offense for him or her to sell, barter, or transfer said ticket for a consideration.

Sec. 4. That it shall be the duty of every agent, who shall be authorized to sell tickets or parts of tickets, or other evidences of the holder's right to travel over any railroad within this State, upon demand, to exhibit to any person desiring to purchase a ticket, or to any officer of the law who may request it, the certificate of his authority to sell, and to keep said certificate posted in a conspicuous place in his office for the information of travelers.

Sec. 5. That it shall be the duty of all railroad companies in this State or the receiver or trustee of any such railroad company, to provide for the redemption, from the holder thereof, of the whole, or any parts or coupons, of any ticket or tickets which they or any of their duly authorized agents may have sold, if for any reason the holder has not used, and does not desire to use the same, upon the following terms: If neither the ticket nor any part thereof has been used by the holder, he shall be entitled to receive the full amount he paid therefor, and where the ticket has been used in part, the holder thereof shall be entitled to receive the remainder of the price paid for the whole ticket, after deducting therefrom the tariff rate between the points for which the portion of said ticket was actually used: Provided, such tickets or parts thereof shall be presented for redemption to the railroad company from which it has been purchased, or the receiver of such railroad company, or to any of the duly authorized ticket agents of such railroad company, or receiver thereof.

or in case of a through ticket, to any of the authorized agents of any connecting line, within a time not exceeding ten days after the right to use said ticket has expired by limitation of time as stipulated therein. Any person or persons who shall sell any unused ticket otherwise than by presentation of the same for redemption, as herein provided, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not exceeding five hundred dollars (\$500): Provided, that the provisions of this act shall not apply to any person holding a ticket upon which is not plainly printed that it is a penal offense for him or her to sell, barter, or transfer said ticket for a consideration; and any railroad company, or receiver, or trustee of such railroad company, over or on which said ticket may be used, which shall refuse or fail to redeem the whole or any part or coupon of any ticket or tickets, when presented, shall forfeit to the holder thereof a sum not less than \$100, nor more than \$500, recoverable in any court of competent jurisdiction.

Sec. 6. That it shall be the duty of the railway company to print conspicuously across the face of every ticket sold by its duly authorized agents in this State a notice to the holder thereof that it is a penal offense for him to sell, barter, or transfer said ticket for a consideration, and that this ticket or any unused part thereof is redeemable by the company or its receiver at any ticket office of the company, when presented for redemption.

Sec. 7. The near approach of the close of this session, and the fact that there is now no law prohibiting the evils sought to be prevented by this act, which exist to a great extent, creates an imperative public necessity and emergency which authorizes the suspension of the rule requiring bills to be read on three several days, and said rule is hereby suspended; and this act shall take effect from and after its passage, and it is so enacted.

Approved May 2, A. D. 1893.

BOARD OF PARDON ADVISORS.

CHAP. 74.—[S. B. No. 19.] An act to authorize the Governor to call to his aid two qualified voters to serve for a term not exceeding one hundred days per annum, to perform such duties as may be directed by him, consistent with the Constitution, pertaining to applications for pardon, and to be known as a board of pardon advisers, and to provide for the compensation of such persons.

Section 1. Be it enacted by the Legislature of the State of Texas: That the Governor is hereby authorized to call to his aid, for a time not exceeding one hundred days per annum, two qualified voters of this State, who shall perform such duties as may be directed by him, consistent with the Constitution, as he may deem necessary in disposing of all applications for pardon. The said two voters shall be known as a board of pardon advisers, and shall be paid out of any money in the State treasury, not otherwise appropriated, five dollars each per day they may so serve, on voucher approved by the Governor.

Approved May 2, A. D. 1893.

BONDS—PROVIDING FOR THE RETIREMENT OF STATE BONDS PAST DUE, ETC.

CHAP. 75.—[S. S. B. No. 191.] An act to provide for the retirement of the past due bonds of the State of Texas; for the payment of interest thereon, and the issuance of other bonds at a lower rate of interest in lieu thereof.

Section 1. Be it enacted by the Legislature of the State of Texas: That the Governor of the State is hereby authorized to have prepared and issued as may be necessary, manuscript and lithographic bonds of the State to the total amount of four hundred and eighty-six thousand five hundred dollars, to-wit: Three hundred and thirty-four thousand five hundred dollars, due and payable forty years from date, bearing four per cent interest per annum from date, interest payable semi-annually on the first days of January and July, said bonds to be of such denomination as the Governor may direct, and redeemable at the option of the State at any time after five years from the date of their issuance; one hundred and fifty-two thousand dollars, bearing five per cent interest per annum from date, payable to the University of Texas—interest payable semi-annually, said bonds to be non-negotiable and non-transferable, and redeemable at the option of the State; all bonds issued under this act to be signed by the Governor and State Treasurer, and countersigned by the Comptroller of Public Accounts; also the title and date of the passage of this act shall be recited therein, and registered in the office of the State Treasurer.

Sec. 2. The purpose of the issuance of these bonds shall be for the retirement of the following series of past due State bonds:

1. Two hundred thousand dollars (\$200,000) of six per cents of the act of February 13, 1885, redeemable at the pleasure of the State, January 1, 1890.

2. Twenty-five thousand five hundred dollars (\$25,500) of six per cents of the acts of May 2, 1871, due March 1, 1892.

3. Two hundred and sixty-one thousand dollars (\$261,000) of seven per cents of the act of December 2, 1871, due April 1, 1892.

Sec. 3. The bonds authorized to be issued by this act shall be used in the following manner: The manuscript in lieu and in retirement of past due bonds held by special funds: Provided, should the Governor be unable to substitute said four and five per cent bonds in lieu of past due bonds held by special funds, or any part thereof, then the lithographic shall be sold by the Governor at not less than their face value, and the proceeds applied to the purchase of the past due bonds hereinbefore named.

Sec. 4. The Comptroller shall pay the accumulated interest due upon said past due bonds by issuing his warrants on the State Treasurer for all interest due up to March 1, 1893, and thereafter, until said bonds are retired.

Sec. 5. That the sum of twelve hundred dollars (\$1200), or so much thereof as may be necessary, is hereby appropriated, out of any money in the treasury not otherwise appropriated, to pay the expenses of engraving and printing the bonds provided for in this act, and the plates used in engraving and printing the said bonds shall be cancelled or destroyed under the direction of the Governor, and a certificate to that effect shall be filed in the office of the Comptroller of Public Accounts.

Sec. 6. The fact that these bonds are past due, and that their retire-

ment and the payment of the accumulated interest thereon is not provided for by law, creates an emergency and an imperative public necessity that the constitutional rule be suspended requiring bills to be read on three several days, and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved May 2, A. D. 1893.

COURTS CIVIL APPEALS—REGULATING THE CERTIFYING OF QUESTIONS AT ISSUE TO THE SUPREME COURT FOR ADJUDICATION.

CHAP. 76.—[S. S. B. No. 168.] An act to amend section 35, chapter 15, of the General Laws of Texas, of the acts of the special session, 1892, Twenty-second Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas: That section 35, chapter 15, of the General Laws of Texas, of the acts of the special session, 1892, Twenty-second Legislature, be so amended as to read as follows:

Section 35. Whenever in any case pending before the Court of Civil Appeals there should arise an issue of law which said court should deem it advisable to present to the Supreme Court for adjudication, it shall be the duty of the presiding judge of said court to certify the very question to be decided to the Supreme Court, and during the pendency of the decision by the Supreme Court the cause in which the issue is raised shall be retained for final adjudication in accordance with the decision of the Supreme Court upon the issue submitted.

Sec. 2. The crowded condition of the dockets of the Courts of Civil Appeals, and the near approach of the close of the session, create a public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and this act take effect and be in force from and after its passage, and it is so enacted.

Approved May 2, A. D. 1893.

LANDS—MINERAL—SALE OF.

CHAP. 77.—[S. B. No. 186.] An act to amend section 10, chapter 100, of an act entitled "An act to promote the development of the mining resources of Texas," approved March 29, 1889.

Section 1. Be it enacted by the Legislature of the State of Texas: That section 10, of chapter 100, of an act entitled "An act to promote the development of the mining resources of Texas," approved March 29, 1889, be so amended as to hereafter read as follows:

Section 10. That any person shall have the right to purchase and obtain patent, by compliance with this act, on any public school, university, asylum, and public lands, containing valuable deposits of kaolin, baryta, salt, marble, fire-clay, iron ore, coal, oil, natural gas, gypsum, nitrates, mineral paints, asbestos, marls, natural cement, clay, onyx, mica, precious

stones, and stone valuable for ornamental purposes, or other valuable building material, in legal subdivisions in quantity not exceeding one section: Provided, that where any such parties shall have heretofore expended, or shall hereafter expend, five thousand dollars in developing the aforesaid mineral resources of any of said lands, such parties shall have the right to buy one additional section and no more, and to include in the purchase any section, or part thereof, on which the work may have been done. The lands so purchased may be in different sections, and all embraced in one or more obligations, not to exceed the quantity stated. The purchaser shall pay not less than fifteen dollars per acre where the lands shall be situated ten miles or less of any railroad in operation, and not less than ten dollars per acre where the land is over ten miles from such railroad; one-tenth of the purchase money to be paid in cash to the State Treasurer, and the purchaser shall file the Treasurer's receipt with the Commissioner of the General Land Office, together with an obligation to pay the State of Texas the remainder in nine equal annual installments, with interest at six per cent per annum from date, subject to forfeiture as in other cases. And all said lands are reserved from sale or other disposition than under this act; and where application is made to buy any of the lands herein named, except under this act, the purchaser shall swear that there are none of the minerals named in this act on said lands, so far as he knows or has reason to believe, or does believe: Provided, further, that any party hereinbefore named who shall, prior to the passage of this act, have been the first to work on said lands for the development of said mineral resources, and who has not abandoned said work, and is qualified at passage of this act to buy, shall have a prior preference right of doing so for thirty days after this act goes into effect: Provided, further, this act shall not authorize the sale of lands containing valuable deposits of gold, silver, lead, cinnabar, copper, or other valuable metal.

Sec. 2. The fact that there is no adequate law for utilizing the lands named in this act, and the development thereof retarded, creates an emergency, and an imperative public necessity exists that the constitutional rule requiring bills to be read on three several days be suspended, and this act take effect from date of passage, and it is so enacted.

Approved May 2, A. D. 1893.

LANDS—TAX SALE OF—REDEMPTION OF.

CHAP. 78.—[S. B. No. 241.] An Act to extend the time within which lands that have been sold for taxes and bought in by the State, cities, and towns may be redeemed.

Section 1. Be it enacted by the Legislature of the State of Texas: That all lands which have been heretofore sold for taxes and bought in by the State or by cities and towns, and which have not been redeemed, may be redeemed by the owner thereof, or his agent or legal representative, if within twelve months from the date on which this act takes effect said owner or agent or legal representative, when he desires to redeem land from the State, shall pay to the State the original State and county taxes for which said lands were sold, and all costs, together with six per cent

interest thereon and the taxes due each year since such sale, or from the day of the accrual of such subsequent taxes, as the case may be, under such rules and regulations as shall be prescribed by the Comptroller of the State; and when he desires to redeem lands sold to any city or town, said owner, agent, or representative shall pay to such city or town the original city or town tax for which said lands were sold, and all costs, together with six per cent interest thereon and the taxes due each year since said sale, or from the day of accrual of such taxes, as the case may be: Provided, that the proportion of the redemption money due the county shall be remitted to the treasurer of the proper county by the Comptroller.

Sec. 2. Whereas there are persons whose lands have been sold for taxes and who are anxious to redeem the same, and which creates an imperative public necessity for the suspension of the constitutional rule which requires that all bills be read on three several days, said rule is therefore suspended, and an emergency exists that this act should take effect from and after its passage, and it is so enacted.

Approved May 2, A. D. 1893.

LANDS—SALES BY FOREIGN EXECUTORS VALIDATED.

CHAP. 79.—[S. B. No. 231.] An act to validate sales of real estate within this State, made by foreign executors of wills probated in any of the States of the United States.

Section 1. Be it enacted by the Legislature of the State of Texas: That all sales of real estate within this State, which have been heretofore made by executors of wills, which, prior to such sales, had been probated according to the laws of another State, of the United States, having jurisdiction, and which wills possessed the requisites to pass title to real estate required by the statutes of this State, where such wills conferred upon the executors the power to sell the real estate so sold, independent of the probate court, and where such sales would have been valid and effectual to pass the title to such real estate had the wills been probated in this State, be and the same are hereby validated: Provided, however, that the validation of such sales shall not defeat the rights of creditors of the testators of such wills, nor affect the title of purchasers for value from the heirs or devisees of the testators of such wills, where such purchases were made prior to the enactment hereof.

Sec. 2. Whereas, there is now no law under which such sales as are herein mentioned can be validated; and whereas, there are now pending a great many bills before the Senate and House of Representatives, and the near approach of the end of the session creates an emergency and a great public necessity requiring that the constitutional rule requiring bills to be read on three several days be suspended and that this act take effect from its passage; therefore be it enacted, that said constitutional rule be and is hereby suspended, and that this act take effect from and after its passage, and it is so enacted.

Approved May 2, A. D. 1893.

JUDICIAL DISTRICT—TWENTY-SIXTH.

CHAP. 80.—[H. B. No. 529.] An act to authorize and provide for holding of special terms of the district courts in the twenty-sixth judicial district.

Section 1. Be it enacted by the Legislature of the State of Texas: That whenever, in the opinion of the judge of the twenty-sixth judicial district, there shall be a sufficient number of civil cases pending in the district court of any county in said district, in excess of what can be disposed of at the regular terms of said court, to justify the holding of a special term of said court to try pending civil cases, the judge of said district shall have power to order and hold, from time to time, special terms in said county for the trial of such pending civil cases alone. By pending civil cases is meant all civil cases the service in which was so perfected at the last regular term preceding a special term, that the same might have been lawfully tried at said regular term, as well as other civil cases brought before such special term begins, or while it may be in session, in which an agreement to try the same at such special term may be made by all the parties thereto.

Sec. 2. That, in order to call a special term of the district court in any county in said district, the judge of said district shall, either in term time or vacation, make and file with the clerk of the district court of such county, an order, to be entered in the minutes of said court, ordering a special term of said court, stating the time when the same shall commence, and during what time said term will be held, and the time during such term when the nonjury civil cases and jury civil cases will be respectively given precedence in the trial of causes at said special term.

Sec. 3. That the clerk of such court, on the receipt of such order, shall immediately enter the same at large upon the minutes of said court, and shall make and place in the hands of the sheriff of said county eight certified copies of said order as the same appears of record in the minutes of said court. Whereupon, the sheriff of said county shall give notice of such order by posting a copy of the same in six public places in said county, one of which shall be at the court house door of such county, for not less than twenty days prior to the time fixed in said order for the commencement of said special term, and shall cause one of said copies to be printed once a week for three weeks in some newspaper in said county prior to the commencement of said special term, if there be a newspaper printed in said county, as often as once a week for three weeks prior to the time fixed by said order for the commencement of said special term, and said sheriff shall endorse on the eighth copy his return, showing how he has complied with this act in giving notice of such order, and file the same with the clerk of said court by 9 o'clock a. m. on the day on which said special term is to begin, and said copy and the return thereon shall be entered at large upon the minutes of said court. The minutes of such order and the preliminary proceedings prior to the opening of such special term shall be evidence of the ordering of such special term, and of the notice given thereof.

Sec. 4. That so many of the jurors selected by the commissioners for the next regular term to be held after a special term is ordered as may be required for such special term, shall be summoned as jurors for such special term, and the clerk of the court, on receiving the order for a spe-

cial term, shall open the jury list of jurors selected for such next regular term, taking them in the numerical order of the number of the weeks of the next regular term for which they were selected, until he shall have opened as many lists as there shall be weeks of the special term during which jurors will be required, as shown by the order of the judge; and the clerk and the sheriff shall further proceed to obtain the attendance of such jurors as is required by law to obtain the attendance of the jurors at regular terms after jury lists are opened. Each list shall be summoned for a different week from that for which any other list shall be summoned.

Sec. 5. During a special term, jury commissioners shall be appointed, and jurors shall be selected to take the place, in the next regular term, of such jurors selected for the next regular term as may have been required for the special term.

Sec. 6. That the fact that there is pending in the district court of Williamson county, in said district, a large number of civil cases which it has been impossible to try at the regular terms of said court, and also try the criminal cases which have been pending in said court, and for the trial of which civil cases a special term is required, and the fact that there is no adequate law authorizing calling special terms of district courts, creates an imperative public necessity which authorizes the suspension of the rule requiring bills to be read on three several days, and said rule is hereby suspended; and the same facts create an emergency requiring that this act take effect from and after its passage, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 20th day of April, A. D. 1893, but was not signed by him, nor returned to the house in which it originated, with his objections thereto, within the time prescribed by the Constitution, and thereupon became a law without his signature. Geo. W. Smith, Secretary of State.]

JUDICIAL DISTRICTS—ELEVENTH—NINTH.

CHAP. 81.—[S. B. No. 157.] An act to amend section 9 and section 11 of an act entitled an act to redistrict the State into judicial districts, and fix the times for holding court therein, and to provide for the election of judges and district attorneys at the next general election, to be held on the first Tuesday after the first Monday in November, 1884, approved April 9, 1883, and the amendatory acts thereto, approved March 24, 1885, and March 31, 1885, and the further amendatory acts thereto, approved March 29, 1887; and also to amend an act entitled an act to prescribe the time of holding the terms of the district court in the eleventh judicial district, approved March 19, 1889, and to change the times of holding the district courts in the ninth judicial district, and to take Montgomery county from the eleventh and attach the same to the ninth judicial district, and to fix the time of holding courts in said districts and to provide for the return of all writs and process returnable to the district courts of said counties affected by this act, that have heretofore been issued by said courts, and that may hereafter be issued before this act takes effect, and made returnable to the terms of said courts as now fixed by law, and to make the same as valid and binding as if no change had been made, and to repeal all laws and parts of laws in conflict herewith.

Section 1. Be it enacted by the Legislature of the State of Texas: That section nine and section eleven of an act entitled "An act to redistrict the State into judicial districts, and fix the time for holding court therein,

and to provide for the election of judges and district attorneys at the next general election, to be held on the first Tuesday after the first Monday in November, 1884," approved April 9, 1883, and the amendatory acts thereto approved March 24, 1885, and March 31, 1885, and March 29, 1887, and an act entitled "An act to prescribe the time of holding the terms of the district court in the eleventh judicial district," approved March 9, 1889, be so amended as to hereafter read as follows:

Section 9. The ninth judicial district shall be composed of the counties of Montgomery, Liberty, Chambers, Hardin, San Jacinto, and Polk, and the district courts therein shall be held as follows:

In the county of Montgomery on the second Monday in January and July, and may continue in session four weeks.

In the county of Liberty on the fifth Mondays after the second Mondays in January and July, and may continue in session four weeks.

In the county of Chambers on the ninth Mondays after the second Mondays in January and July, and may continue in session two weeks.

In the county of Hardin on the eleventh Mondays after the second Mondays in January and July, and may continue in session three weeks.

In the county of San Jacinto on the fourteenth Mondays after the second Mondays in January and July, and may continue in session five weeks.

In the county of Polk on the nineteenth Mondays after the second Mondays in January and July, and may continue in session until the business is disposed of.

Sec. 2. That section eleven of the heretofore referred to act, entitled an act to redistrict the State into judicial districts, etc., approved April 9, 1883, and the act amendatory thereto, approved March 31, 1885, and the act entitled an act to prescribe the time of holding the terms of the district court in the eleventh judicial district, be amended as to read hereafter as follows:

Section 11. The eleventh judicial district shall be composed of the county of Harris, and the district courts shall be held therein as follows:

On the first Mondays in January, April, and October in each year, and shall continue in session eight weeks, or until the business of the court is disposed of.

Sec. 3. That all writs and process returnable to the district courts as heretofore fixed in the counties affected by this act, and all such writs and process that may hereafter be issued before this act shall take effect, and made returnable to the terms of said district courts as now fixed by law, shall be valid and binding, as if no change had been made.

Sec. 4. Provided, that this act shall not be in force and take effect until the first day of July, A. D. 1893.

Sec. 5. That all laws and parts of laws in conflict with this act be and the same are hereby repealed.

Sec. 6. The near approach of the close of the present session of the Legislature, the crowded condition of the calendars, and the necessity that the several officers of the courts affected by this bill should have immediate information of the provisions of the same, creates an imperative public necessity demanding the suspension of the constitutional rule requiring bills to be read on three several days, and said rule is so suspended; and by reason of the premises an emergency exists requiring this act to take effect from and after July 1, 1893, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 20th day of April, A. D. 1893, but was not signed by him, nor returned to the house in which it originated, with his objections thereto, within the time prescribed by the Constitution, and thereupon became a law without his signature. Geo. W. Smith, Secretary of State.]

ROADS—COLLIN, GRAYSON, WILLIAMSON, LAMAR, AND BELL COUNTIES.

CHAP. 82.—[S. B. No. 351.] An act to create a more efficient road system for Collin, Grayson, Williamson, Lamar, and Bell counties, in the State of Texas, and making county commissioners of said counties *ex officio* road commissioners, and prescribing their duties as such, and providing for their compensation as road commissioners, and providing for the appointment of deputy road commissioners, and defining the powers and duties of the commissioners court of said counties, and to provide for the manner of training hedges along any public road, and fixing a penalty for the violation of this act, and to repeal all laws in conflict with this act.

Section 1. Be it enacted by the Legislature of the State of Texas: That each member of the commissioners court of Collin, Grayson, Williamson, Lamar, and Bell counties shall be *ex officio* road commissioner of their respective districts, and under the direction of the commissioners court shall have charge of all the teams, tools, and machinery belonging to the county, and placed in their hands by said court; and it shall be their duty, under such rules and regulations as the commissioners court may prescribe, to superintend the laying out of new roads, the making or changing of roads, and the building of bridges. Each of said commissioners shall, before entering upon the duties of their office, execute a bond of one thousand dollars, with two or more good and sufficient sureties, payable to the county judge of said county for the use and benefit of the road and bridge fund, conditioned that they will perform all the duties required of them by law or by the commissioners court, and that they will account for all money or property belonging to the county that may come into their possession: Provided, that with the consent of the commissioners court any one of said commissioners shall be allowed to appoint any competent person as deputy road commissioner, who shall be required to execute the same bond that is required of commissioners in this section; and such deputy road commissioners shall be entitled to the same compensation that is allowed county commissioners for the same service: Provided, that county commissioners shall not be allowed any compensation as road commissioners when a deputy road commissioner has been appointed.

Sec. 2. The commissioners court of said counties shall have full power and authority, and it shall be their duty, to adopt such system for working, laying out, draining, and repairing the public roads in said counties as they may deem best, and from time to time said court may change its plans or system of working. Said commissioners court shall have power to purchase such teams, tools, and machinery as may be necessary for the working of its roads. Said court shall have the power to construct, grade, or otherwise improve any road or bridge by contract. In such case said court, or the county judge, may advertise, in such manner as

said court may determine, for bids to do such work, and the contract shall be awarded to the lowest responsible bidder, who shall enter into bond, payable to the county judge of said county, for the use of the road and bridge fund, with good, sufficient sureties, to be approved by said court, and in such sum as said court may determine, for the faithful compliance with the terms of said contract, but said court shall have the right to reject any and all bids. At the time of making any such contract the court shall direct the county treasurer to pass the amount to a particular fund for that purpose, and the treasurer shall keep a separate account of such fund, and the same shall not be used for any other purpose, and can only be paid out on the order of said court; and the said court shall have authority to employ any hands or teams to work on the roads, under such regulations and for such price as they may deem best.

Sec. 3. The commissioners court of said counties shall require all county convicts, not otherwise employed, to labor upon the public roads, under such regulations as it may prescribe, and each convict so worked shall receive a credit of fifty cents on his fine first, and then on the cost, for each day he may labor. The commissioners court may, at a regular term, allow to the officers and witnesses such amount of their cost for the arrest and conviction of said convict as it may deem best: Provided, that it shall not allow to any officer an amount greater than the following: County judge, \$3.00; county attorney, \$5.00, including commissions; county clerks and justices of the peace, \$1.70; sheriffs or constables, \$2.00; which amount shall be paid to the officers out of the road and bridge fund, on the warrant of the county judge, when said fine and costs shall have been worked out as provided in this section: Provided, that this shall not be construed as to relieve any convict from the payment of all costs for which he would be liable under the general laws of this State. The commissioners court may grant a reasonable commutation of time for which a convict is committed, as a reward for faithful services and good behavior: Provided, that such commutation shall in no case exceed one-tenth of the whole time. The commissioners court may provide the necessary houses, prisons, clothing, bedding, food, medicine, medical attention, and guards, for the safe and humane keeping of convicts.

Sec. 4. Each county commissioner shall have control of all road overseers in his district, and shall deliver to each of them all teams, tools, and machinery necessary in working the roads in the district of said overseer, so far as he has been supplied therewith by the commissioners court, taking receipt of said road overseer therefor, specifying each item and giving its value, which receipt shall be a full answer of the liability of the commissioner, and shall fix the liability of the overseer; and any commissioner or overseer who shall have been entrusted with any team, tools, or machinery belonging to said county, shall be liable for any damages that may occur to the same while in his possession. It shall be the duty of the road overseer, when he has finished work on his road, to return to said commissioner all teams, tools, and machinery received from him, and to take up the receipt given therefor.

Sec. 5. It shall be the duty of the county commissioner, when acting as road commissioner, to inform himself of the condition of the public roads in his district, and shall determine what character of work shall be done upon said roads, and shall direct the manner of grading, draining,

or otherwise improving the same, which directions shall be observed and obeyed by all road overseers of his district.

Sec. 6. The commissioners may require each road overseer in his district to call out the hands in such numbers as may be sufficient to perform the work, but no road hand shall be required to work exceeding five days in any one year, unless the term of service as prescribed by the general laws shall be extended beyond that time: And provided, that all road hands in a particular district shall, as far as practicable, be worked a uniform time. Each road overseer shall have full control of all road hands within his road district, and he shall see that each hand, when called out, shall perform a good day's work; and if any hand, when so called out, shall fail or refuse to perform a good day's work, or to work in the manner the overseer may direct, he shall be liable to the same penalty as if he had failed to appear in obedience to the summons. The commissioners court may allow to any overseer who shall be engaged in the discharge of the duties of his office for more than five days during any one year, a compensation, not to exceed one dollar and one-half per day, for the time so served.

Sec. 7. Any citizen of Collin, Grayson, Lamar, Williamson, and Bell counties, liable for road duty, who shall, on or before the first day of January of any year, pay to the county treasurer the sum of \$3, shall be exempt from road duty for such year, beginning on the first day of January. The treasurer shall receive and receipt for all money so paid him, and place the same to the credit of the road and bridge fund, and he shall keep a separate account for each road district from which it is received. The treasurer shall, on the third day of January, or as soon thereafter as practicable, furnish to each county commissioner a list of all persons in their respective districts that have paid said sum as provided in this section.

Sec. 8. Whenever it shall be necessary to occupy any land for the purpose of opening, widening, straightening, or draining any road or part thereof, if the owner of such land and the county commissioners court can not agree upon the damage to be paid, the county may proceed to condemn the same in the same manner that a railroad company can condemn land for right of way, and the same proceedings may be had, and the same rights shall exist to each party as would exist if the proceedings were by a railroad company, except that the county shall in no case be required to give bond.

Sec. 9. Every owner of a farm or other lands, upon which a hedge of any description grows on or near the public road, shall be required to keep the same trimmed so that the height of the same shall not exceed eight feet above the level of the ground. Any such owner who shall fail or neglect to so trim such hedge, shall be notified in writing by the road overseer of that district to trim such hedge as herein required; and in such case [if] such owner shall, after receiving such notice, fail or refuse to so trim such hedge within a reasonable time, he shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not to exceed \$20 per week from and after the time that he received such notice; such fine to be paid into the county treasury and to be placed to the credit of the road and bridge fund of said county. If any owner of any farm shall fail or refuse, after being notified as herein required, to trim his hedge as required by this act, then the road overseer shall cause the same to be

trimmed in accordance with the provisions of this act, to be paid out of the road and bridge fund of the county.

Sec. 10. Each county commissioner, when acting as road commissioner, and performing the duties imposed upon him by law, or by the commissioners court, shall be entitled to two dollars per day for the services actually performed: Provided, that he shall not receive more than forty-five dollars (\$45.00) per quarter, when the road and bridge tax has not been levied as provided by law, under the amendment of 1889, as adopted in 1890, to the Constitution of the State of Texas. And when said tax shall have been levied he may receive an amount not to exceed ninety (\$90) per quarter, which amount shall be paid out of the road and bridge fund, when the account shall have been approved by the commissioners court, and the court shall not approve said account unless the commissioner presenting it shall sign an oath that the account is just, due, and unpaid, and specifying the number of days work actually performed by him, and that it was necessary to be done; and no commissioner shall be entitled to pay as road commissioner while he is performing the duties of a county commissioner.

Sec. 11. This act shall be taken notice of by all courts in the same manner as the general law of the State, and it shall be construed to be cumulative of all general laws of the State on the subject of roads and bridges when not in conflict therewith; but in a case of conflict this act shall control as to the counties of Collin, Grayson, Williamson, Lamar, and Bell; and an act passed at the regular session of the Twenty-second Legislature, approved April 4, 1891, providing a special road law for Collin County, is hereby repealed.

Sec. 12. The fact that there is now no sufficient general road law in force in this State creates an emergency and imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 20th day of April, A. D. 1893, but was not signed by him, nor returned to the house in which it originated, with his objections thereto, within the time prescribed by the Constitution, and thereupon became a law without his signature. Geo. W. Smith, Secretary of State.]

PRIVATE CORPORATIONS.

CHAP. 83.—[S. B. No. 292.] An act to amend article 566, chapter 2, title 20, of the Revised Civil Statutes of the State of Texas, as amended by Twenty-second Legislature, chapter 101, page 161.

Section 1. Be it enacted by the Legislature of the State of Texas: That article 566 of chapter 2, title 20, of the Revised Civil Statutes of the State of Texas, as amended by the Twentieth Legislature, approved April 30, A. D. 1888, and amended by the Twenty-second Legislature, chapter 101, pages 161 and 162, be so amended as hereafter to read as follows:

Article 566. The purposes for which private corporations may be formed are:

1. The support of public worship.
2. The support of any benevolent, charitable, educational, or missionary undertaking.
3. The support of any literary and scientific undertaking; the maintenance of a library, or the promotion of painting, music, and other fine arts.
4. The encouragement of agriculture and horticulture by associations for the maintenance of public fairs and exhibitions of stock and farm products.
5. The maintenance of a public or private cemetery or crematory.
6. The construction and maintenance of any species of roads, and bridges in connection therewith.
7. The construction and maintenance of a bridge, which may be used for any or all modes of travel and transportation.
8. The construction and maintenance of a telegraph and telephone line.
9. The establishment and maintenance of a ferry.
10. The establishment and maintenance of a line of stages.
11. The building and navigation of steamboats and vessels, and the carriage of persons and property thereon.
12. The supply of water to the public.
13. The manufacture and supply of gas, and the supply of light, heat, and electric motor power, or either of them, to the public by any means.
14. The transaction of any manufacturing or mining business, and the purchase and sale of such goods, wares, and merchandise used for such business.
15. The transaction of a printing or publishing business; and in connection therewith, the sale of goods, wares, and merchandise of a stationery and blank book manufacturing business.
16. The establishment and maintenance of a hotel.
17. The erection or repair of any building or improvement, and the accumulation and loaning of money for said purposes; and for the purchase, sale, and subdivision of real property in towns, cities, and villages, and their suburbs, not extending more than two miles beyond their corporate limits, and for the accumulation and loaning of money for that purpose.
18. The transportation of goods, wares, and merchandise, or of any valuable thing.
19. The promotion of immigration.
20. The construction and maintenance of sewers.
21. For the constructing, acquiring, and maintaining and operating street railways, and suburban or belt lines of railway within and near cities and towns, which may also construct, own, and operate union depots. But no street railway company shall ever be exempt from the payment of assessments that may be legally levied or charged against it for street improvement.
22. The erection and maintenance of market houses and market places.
23. The construction and maintenance of canals for the purpose of irrigation, navigation, or manufacturing.
24. The purchase and sale of goods, wares, and merchandise, and agricultural and farm products. The number of persons incorporating for such purposes shall in no instance be less than ten, nor shall any person hold or own more than \$500 of such stock, and any person holding and

owning more than \$500 of such stock shall be liable for all debts of such corporation: Provided, that the provisions of this subdivision shall not apply to any company incorporated for the purpose of constructing, maintaining, and carrying on grain elevators.

25. For the purpose of buying and selling goods, wares, and merchandise of any description by wholesale; but the limitation upon stock and stockholders in corporations created under subdivision 24 of this article shall not apply to corporations created under this subdivision.

26. The construction of harbors and canals on the coast of the Gulf of Mexico.

27. The growing, selling, and purchasing of seeds, plants, trees, etc., for agricultural, horticultural, and ornamental purposes, and to purchase and lease all lands necessary for that purpose.

28. The construction and maintenance of mills, gins, cotton compresses, grain elevators, wharves, and public warehouses for the storage of products and commodities, and the purchase, sale, and storage of produce and commodities by grain, elevator and public warehouse companies, and the loan of money by such elevator or public warehouse companies.

29. The accumulation and loan of money.

30. The construction and maintenance of stock yards and pens.

31. The construction and maintenance of establishments for slaughtering, refrigerating, canning, curing, and packing meat, and loaning or advancing money by such establishments on any class of live stock.

32. The construction and maintenance of establishments for the preserving and canning of fruits, vegetables, and fish.

33. The establishment and maintenance of clearing houses.

34. To construct and maintain water power.

35. For the purpose of constructing railroads and bridges for railroad companies.

36. To support and maintain bicycle clubs and other innocent sports.

37. To act as trustee, or assignee or receiver, when designated by any person, corporation, or court so to do, and to do a general fiduciary and depository business. To act as surety and guarantor of the fidelity of employees. To act as executor and testamentary guardian when designated as such by decedents: Provided, that each corporation organized under this section shall publish in some newspaper of general circulation in the county where such company is organized, on the first day of February of each year, a statement of its condition on the previous 31st day of December, showing, under oath, its assets and liabilities, and that a copy of this statement be filed with the Commissioner of Insurance, Statistics, and History, and a fee of twenty-five dollars is paid to that officer for filing the same, and that an examination of its affairs be made at any time by the Commissioner of Insurance, Statistics, and History, such examination to be at the expense of the company.

38. For establishing transportation companies with power to buy, construct, lease, own, operate, maintain, and convey all kinds of steamships, vessels, and other water crafts, and may navigate the same between all ports of the globe, and upon rivers; and construct, buy, lease, own, maintain, operate, and convey warehouses, docks, and wharves; and to buy, lease, receive, own, hold, and enjoy real and personal property necessary in the transaction of its business. To receive, purchase, hold, use, and convey such rights, privileges, franchises and property, and to exercise

beyond the jurisdiction of this State such powers as may be granted to or conferred upon it by any foreign government, State, or municipality; to have officers and agents and to maintain offices at all points at which the company may do business; to act as principal or agent in buying or selling merchandise in all foreign countries; to carry passengers, freight, express, and mail.

39. The establishment of land companies to buy, own, sell, and convey real estate in any State or foreign country; but such companies shall only own such real estate in this State as may be necessary for its office.

40. Any person, or association of persons, for the purpose of making, compiling, and owning an abstract of titles to lands and liens of all character on any property, or any other abstract of records of this State, or any county thereof, required by law to be recorded.

41. The improvement of rivers and other waterways in this State, and to render the same navigable for steam vessels and other water crafts, with the authority to charge and collect tolls for the navigation of such rivers and waterways.

42. The protection, preservation, and propagation of fish and game.

43. For the organization and maintenance of volunteer fire companies.

44. For the protection of women and children, and for the prevention of cruelty to animals.

45. For the erection and maintenance of sanitariums.

46. For the organization of fire, marine, life, and live stock insurance companies.

47. To construct steam and electric plows for breaking, cultivating, and draining of lands.

Sec. 2. The large number of bills now pending before the Legislature, and the advanced state of the session, and the large number of enterprises in Texas, now doing business in Texas, but desiring to incorporate under the laws of Texas, creates an emergency and imperative public necessity that the constitutional rule requiring all bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 20th day of April, A. D. 1893, but was not signed by him, nor returned to the house in which it originated, with his objections thereto, within the time prescribed by the Constitution, and thereupon became a law without his signature. Geo. W. Smith, Secretary of State.]

BONDS—COURT HOUSE—JAIL—BRIDGE.

CHAP. 84.—[H. B. No. 458.] An act to authorize the county commissioners courts of the several counties of this State to issue court house and jail and bridge bonds, or either, and to repeal all other laws authorizing the issuance of county court house and jail and county bridge bonds.

Section 1. Be it enacted by the Legislature of the State of Texas: That the county commissioners court of any county in this State is hereby authorized and empowered to issue the bonds of said county for the following purposes:

1. For the erection of a county court house and jail, or either.
2. For purchasing or constructing bridges for public purposes, within the county or across a stream that constitutes a boundary line of the county.

Sec. 2. All bonds issued under this law shall run not exceeding forty years, and shall be redeemable at the pleasure of the county at any time after five years after the issuance of the bonds, or after any period not exceeding ten years, which may be fixed by the commissioners court.

Sec. 3. Said bonds shall draw interest at a rate not exceeding six per cent per annum, payable on the 10th day of April; or interest may, in the discretion of the commissioners court, be made payable semi-annually, on the 10th day of April and the 10th day of October, respectively. interest shall be evidenced by attached coupons.

Sec. 4. The issue of bonds under this act shall be based upon the taxable values of the county according to the last approved assessment, and shall be limited as follows: Court house and jail bonds shall be limited to an amount not exceeding two per cent of said taxable values; bridge bonds shall be limited to an amount not exceeding one per cent of said taxable values. In determining the amount of the bonds of the respective kinds to be issued, previous indebtedness for said several purposes shall be considered. The total indebtedness of any county shall not be increased by any issue of bonds to a sum exceeding five per cent of its said taxable values.

Sec. 5. The commissioners court shall levy annual ad valorem taxes sufficient to pay the interest on said bonds and create a sinking fund for their redemption; which said taxes shall not exceed, for court house and jail bonds, one-fourth of one per cent; for bridge bonds, fifteen cents on each one hundred dollars.

Sec. 6. The bonds shall be signed by the county judge and countersigned by the county clerk and registered by the county treasurer, before delivery. The county treasurer shall keep an account of the amount of principal and interest paid on each, and no bond shall be sold at less than its par value and accrued interest, exclusive of commissions.

Sec. 7. When bonds have heretofore been legally issued for any of the purposes above named, new bonds in conformity with this law may be issued in lieu thereof.

Sec. 8. All other laws authorizing counties to issue bonds for the purpose enumerated in the caption of this act, be and the same are hereby repealed.

Sec. 9. The fact that there is no law which provides definitely for what purposes counties may issue bonds, and the near approach of the close of the session of the Legislature, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and said rule is so suspended; and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved May 3, A. D. 1893.

MINORS—PROTECTION OF.

CHAP. 85.—[H. B. No. 356.] An act to prevent and punish persons enticing or decoying minors away from the custody of their parents or guardians, and to give certain benevolent institutions and orphans homes the rights of guardians over minors surrendered to such institutions and homes for support and education.

Section 1. Be it enacted by the Legislature of the State of Texas: That any person in this State who shall knowingly entice or decoy any minor in the State away from the custody of his parent or guardian, or person standing in the stead of such parent or guardian, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by fine not less than twenty-five nor more than two hundred dollars. In all cases where charitable and benevolent institutions have established homes for dependent orphans of their deceased members, and the person legally entitled to the guardianship of such orphans surrenders them to such homes for support, maintenance, and education, such institutions, under their agencies, rules, and regulations, shall have and exercise over such orphans all the rights of natural guardians, as standing in the place of their parents.

Sec. 2. The fact that the general welfare of minors, in this connection, demands immediate protection, creates an imperative public necessity that the constitutional requiring bills to be read on three several days in both houses, be and the same is hereby suspended.

Approved May 3, A. D. 1893.

FISH—REGULATING AND RESTRICTING THE CATCHING OF FISH IN CHEROKEE, BURNET, HARDIN, LIBERTY, TYLER, HARRISON, NACOGDOCHES, TOM GREEN, BEXAR, NAVARRO, TRAVIS, AUSTIN, JEFFERSON, SAN AUGUSTINE, JASPER, NEWTON, DENTON, AND MARION COUNTIES.

CHAP. 86.—[H. B. No. 577.] An act to prevent the catching or taking of fish, except with the ordinary hook, line, and pole, or trot-line, and to prevent the use of traps, nets, seines, china berries, India berries, or other poisonous substances, or dynamite, giant powder, nitro-glycerine, or other explosive compounds, in any waters in the counties of Cherokee, Burnet, Hardin, Liberty, Tyler, Harrison, Nacogdoches, Tom Green, Bexar, Navarro, Travis, Austin, Jefferson, San Augustine, Jasper, Newton, Denton, and Marion, State of Texas, for the purpose of catching or taking of fish therefrom, and to provide penalties for the violation of the provisions of this act.

Section 1. Be it enacted by the Legislature of the State of Texas: That hereafter no person or persons shall throw, drag, or haul any fish net, seine, or other contrivance, for the purpose of catching fish (except the ordinary hook, line, and pole, or trot-line) in any stream, lake, or pool of water within the counties of Cherokee, Burnet, Hardin, Liberty, Tyler, Harrison, Nacogdoches, Tom Green, Bexar, Navarro, Travis, Austin, Jefferson, San Augustine, Jasper, Newton, Denton, and Marion, State of Texas, above tide water, at any time in the year; and any one violating the provisions of this section, shall, upon conviction, be fined in a sum of not less twenty-five nor more than fifty dollars, with all cost.

Sec. 2. No person or persons shall be permitted to set, place, or use any fixed net, trap, or other contrivance, for catching or trapping fish in any waters in the counties of Cherokee, Burnet, Hardin, Liberty, Tyler, Harrison, Nacogdoches, Tom Green, Bexar, Navarro, Travis, Austin, Jefferson, San Augustine, Jasper, Newton, Denton, and Marion; and any one violating the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof in any court of competent jurisdiction, shall be fined in a sum not less than twenty-five nor more than seventy-five dollars, together with all cost in the case; and each day that any net, trap, or other contrivance for trapping fish, as contemplated by this section, shall remain set or placed, shall constitute a separate offense under this section: Provided, that nothing in this section shall be construed as to prevent or prohibit the fish commissioner of this State from taking any fish at any time for breeding and scientific purposes, and for stocking waters.

Sec. 3. Whoever shall catch or take, or attempt to catch or take, any fish in these counties by the use of line [lime], china berries, India berries, or other poisonous substances, placed in the waters of the counties of Cherokee, Burnet, Hardin, Liberty, Tyler, Harrison, Nacogdoches, Tom Green, Bexar, Navarro, Travis, Austin, Jefferson, San Augustine, Jasper, Newton, Denton, and Marion, State of Texas, or by the exploding of dynamite, giant powder, nitro-glycerine, or other compounds of an explosive nature, in the form of a cartridge or other forms, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than fifty nor more than one hundred and fifty dollars, and all cost.

Sec. 4. It shall be the duty of all persons, firms or corporations, who have created or who may hereafter erect any mill dam, water weir, or other obstructions or weirs on any stream within the waters of the counties of Cherokee, Burnet, Hardin, Liberty, Tyler, Harrison, Nacogdoches, Tom Green, Bexar, Navarro, Travis, Austin, Jefferson, San Augustine, Jasper, Newton, Denton, and Marion, after the passage of this act, to construct and keep in repair fish ways or fish ladders at such mill dam, water weirs, or obstructions, so that at all seasons of the year fish may ascend above such dam, weirs, or obstructions. Any firm, corporation, or person owning such mill dam or obstruction, who shall fail or refuse to construct or keep in repair such fish ways or fish ladders, after the passage of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding one hundred nor less than fifty dollars for each and every such neglect or refusal. Any court, officer, or tribunal having jurisdiction of the offenses set forth in sections one, two, three, and four, or any district or county attorney, may subpoena persons and compel their attendance as witnesses to testify as to the violations of any of the provisions of this act; and any person so summoned and examined shall not be liable to prosecution for any of the violations of this act about which he may testify, and a conviction for said offenses may be had upon the unsupported evidence of any accomplice or participant; and all fines inflicted for the violation of sections one, two, three, and four of this act, shall go to the road and bridge fund of the counties of Cherokee, Burnet, Hardin, Liberty, Tyler, Harrison, Nacogdoches, Tom Green, Bexar, Navarro, Travis, Austin, Jefferson, San Augustine, Jasper, Newton, Denton, and Marion: Provided, however, that

the provisions of this act shall not be so construed as to prevent the use of minnow seines for the catching of minnows for bait. Said minnow seines shall not be of a depth greater than three feet, nor of a greater length than fifteen feet. The provisions of this act shall not apply to any lake, pond, or pool entirely within the lands of any person, company, or association of persons, so as to prevent the owner or proprietor from taking fish therefrom in any manner except as prohibited in section 3.

Sec. 5. Whereas, the time of the year having arrived for the spawning of fish, and near approach of the end of the session, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and it is so suspended; and this act shall take effect and be in force from and after its passage, and it is so enacted.

Approved May 3, A. D. 1893.

DALLAS COUNTY COURT—JURISDICTION DEFINED.

CHAP. 87.—[H. B. No. 705.] An act to define the jurisdiction of the county court of Dallas county, and to expressly confer jurisdiction thereon in specified criminal cases.

Section 1. Be it enacted by the Legislature of the State of Texas: That the county court of Dallas county shall have exclusive original jurisdiction of all misdemeanors of which exclusive original jurisdiction is not given to the justice's court, as the same is now or may hereafter be prescribed by law, and when the fine to be imposed shall exceed \$200; and it shall have exclusive original jurisdiction in all civil cases when the matter in controversy shall exceed in value \$200, and not exceed \$500, exclusive of interest; and concurrent jurisdiction with the district court when the matter in controversy shall exceed \$500 and not exceed \$1000, exclusive of interest; but it shall not have jurisdiction of suits for the recovery of land. It shall have appellate jurisdiction in cases, civil and criminal, of which justices' courts have original jurisdiction, but of such civil cases only when the judgment of the court appealed from shall exceed \$20, exclusive of cost, under such regulations as may be prescribed by law. In all appeals from justices' courts there shall be a trial de novo in the county court, and appeals may be prosecuted from the final judgments rendered in such cases by the county court, as well as all cases, civil and criminal, of which the county court has exclusive or concurrent or original jurisdiction of civil appeals in civil cases to the Court of Civil Appeals, and in such criminal cases to the Court of Criminal Appeals, with such exceptions and under such regulations as may be prescribed by law. The county court shall have the general jurisdiction of a probate court: it shall probate wills; appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards; grant letters testamentary and of administration; settle accounts of executors; transact all business appertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlement, partition, and distribution of estates of deceased persons; and to apprentice minors as provided by law; and the county court, or judge thereof, shall have power to issue writs of injunction, mandamus, and

all writs necessary to the enforcement of the jurisdiction of said court, and to issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the county court or any other court or tribunal inferior to said court.

Sec. 2. At the present session of the Legislature a bill has been passed, creating a criminal district court for the county of Dallas. Section 16, article 5, of the Constitution, provides that the county court shall not have criminal jurisdiction in any county where there is a criminal district court, unless expressly conferred by law. It is the desire of the Legislature that the jurisdiction of the county court of Dallas county, as it now exists, or as it existed before the passage of said law, should not be changed. By reason of the facts recited, and by reason of the circumstance that the Legislature will soon adjourn, an imperative public necessity exists that the constitutional rule requiring bills to be read on three several days be suspended, and that this act should take effect at the same time the bill heretofore referred to, creating a criminal district court for Dallas county, shall take effect; said rule is therefore suspended; and this act shall take effect at the time said law becomes operative, and it is so enacted.

Approved May 3, A. D. 1893.

CITY OF CISCO AND EASTLAND COUNTY—RELIEF FOR.

CHAP. 88.—[H. B. No. 708.] An act for the immediate relief of citizens of the city of Cisco and Eastland county, who are sufferers from a tornado on the night of April 28, 1893, and to appropriate ten thousand dollars therefor.

Section 1. Whereas, on the night of April 28, 1893, a tornado swept over portions of Eastland county, causing great destruction of life and property, especially in the city of Cisco, which was almost entirely destroyed; and

Whereas, many citizens of said city and vicinity are destitute of food and clothing and their homes destroyed, entailing great suffering, which demands immediate relief; therefore

Be it enacted by the Legislature of the State of Texas: That the sum of ten thousand (\$10,000) dollars, or so much thereof as may be necessary, be and the same is hereby appropriated, out of any money in the State Treasury not otherwise appropriated, for the immediate relief of the said citizens of Cisco and Eastland county who are sufferers from said tornado. Said money to be expended under the direction and supervision of the commissioners court of Eastland county; said money to be paid out on warrants of the Comptroller, which warrants shall be issued on certificates of the said commissioners court of Eastland county within sixty days from the passage of this act.

Sec. 2. The tornado which swept over the city of Cisco and portions of Eastland county on the night of April 28, 1893, is hereby declared to be a great public calamity; and an emergency and imperative public necessity exist, requiring that the constitutional rule which requires that bills be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved May 4, A. D. 1893.

JUDICIAL DISTRICT—ELEVENTH—HARRIS COUNTY.

CHAP. 89.—[H. B. No. 579.] An act to prescribe the time of holding the terms of the district court in the eleventh judicial district.

Section 1. Be it enacted by the Legislature of the State of Texas: That the county of Harris shall compose the eleventh judicial district, and the terms of the district court shall be begun and holden in said county of Harris on the first Mondays in February, April, June, October, and December of each and every year, and may continue in session until the business of the court is disposed of.

Sec. 2. That all processes and writs heretofore issued, or that may be issued up to the time this act takes effect, by or from the district court of said county, and made returnable to the terms of said court as now fixed by law, shall be returnable to the next ensuing term of said courts as prescribed by this act, and all such writs and processes are hereby legalized and validated as if the same had been made returnable to the term of said courts as fixed by this act.

Sec. 3. The crowded condition of the docket of the district court of Harris county making it impossible to transact all the business of said court as the terms are now fixed, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and this act take effect and be in force from and after its passage, and it is so enacted.

Approved May 4, A. D. 1893.

DALLAS CRIMINAL DISTRICT COURT.

CHAP. 90.—[S. B. No. 259.] An act to create a criminal district court for the county of Dallas, and to prescribe the jurisdiction thereof; to fix the times for holding the terms thereof; to provide for the appointment and election of the judge thereof, and to provide for the sheriff, clerk and attorney thereof; to limit and conform thereto the jurisdiction of the district courts of Dallas county; and to repeal all laws and parts of laws in conflict herewith.

Section 1. Be it enacted by the Legislature of the State of Texas: That there is hereby created and established at the city of Dallas a criminal district court, which shall have and exercise all the criminal jurisdiction now vested in and exercised by the district courts of Dallas county. All appeals from the judgments of said court shall be to the Court of Criminal Appeals, under the same regulations as are now or may hereafter be provided by law for appeals in criminal cases from district courts.

Sec. 2. From and after the time when this act shall take effect the district courts of Dallas county shall cease to have and exercise any criminal jurisdiction: Provided, however, that if there shall be any criminal case upon trial in either of the district courts of Dallas county when this act shall go into effect, such district court shall retain jurisdiction of such cases until such trial shall be concluded, and until appeal therein shall be perfected, if an appeal shall be taken therein: And provided further, that nothing in this act shall affect the jurisdiction of the district courts of

Dallas county to pronounce sentence in any criminal cases heretofore tried in such courts, or which shall be on trial when this act goes into effect.

Sec. 3. The judge of said criminal district court shall be elected by the qualified voters of Dallas county for a term of four years, and shall hold his office until his successor shall have been elected and qualified. He shall possess the same qualifications as are required of a judge of the district court, and shall receive the same salary as is now or may hereafter be paid to the district judges, to be paid in like manner. He shall have and exercise all the powers and duties now or hereafter to be vested in and exercised by district judges in criminal cases. The judge of said court may exchange with any district judge, as provided by law in cases of district judges, and in case of disqualification or absence of the judge, a special judge may be selected, elected, or appointed, as provided by law in cases of district judges: Provided, that the Governor, by and with the consent of the Senate, shall appoint a judge of said court, who shall hold the office until the next general election after the passage of this act, and until his successor shall have been elected and qualified.

Sec. 4. Said court shall have a seal of like design as the seal now provided by law for district courts, except that the words "Criminal District Court of Dallas County" shall be engraved around the margin thereof, which seal shall be used for all the purposes for which the seals of the district courts are required to be used; and certified copies of the orders, proceedings, judgments, and other official acts of said court, under the hand of the clerk, and attested by the seal of said court, shall be admissible in evidence in all the courts of this State in like manner as similar certified copies from courts of record are now or may hereafter be admissible.

Sec. 5. The sheriff, the county attorney, and the clerk of the district court of Dallas county, as heretofore provided for by law, shall be the sheriff, county attorney, and clerk, respectively, of said criminal district court, under the same rules and regulations as are now or may hereafter be prescribed by law for the government of sheriffs, county attorneys, and clerks in the district courts of the State; and said sheriff, county attorney, and clerk shall respectively receive such fees as are now or may hereafter be prescribed by law for such officers in the district courts of the State, to be paid in the same manner.

Sec. 6. Said court shall hold four terms each year for the trial of causes and the disposition of business coming before it, one term beginning the first Monday of January, one term beginning the first Monday of April, one term beginning the first Monday of July, and one term beginning the first Monday of October. A grand jury shall be empanelled in said court for each term thereof, and jury commissioners shall be appointed for drawing jurors for said court, as is now or may hereafter be required by law in district courts, and under like rules and regulations.

Sec. 7. The trials and proceedings in said court shall be conducted according to the laws governing the pleadings, practice, and proceedings in criminal cases in the district courts.

Sec. 8. Immediately upon this act taking effect, the criminal cases now pending in the district courts of Dallas county, together with all records and papers relating thereto, shall be transferred to said criminal district court, except as otherwise provided in the foregoing section 2.

Sec. 9. All process heretofore issued or served in criminal cases pend-

ing in said county of Dallas, returnable to the fourteenth judicial district court of the State of Texas, and all process in criminal cases pending in said Dallas county, heretofore issued or served, returnable to the forty-fourth judicial district court of the State of Texas, shall be considered as returnable at the time as hereinafter prescribed, and all such process is hereby legalized and validated as if the same had been made returnable to said criminal district court of Dallas county, and at the time herein prescribed. And all bail bonds and recognizances in criminal cases pending when this act shall take effect, binding any person or persons to appear at the fourteenth judicial district court, or the forty-fourth judicial district court, shall have the effect to require such person or persons to appear at the first term of the criminal district court of Dallas county to be held after the passage of this act, and there to remain from day to day, and from term to term, until finally discharged, under the same penalties as may be provided in such bail bonds or recognizances.

Sec. 10. All laws and parts of laws in conflict with the provisions of this act are hereby repealed.

Sec. 11. The great accumulation of cases upon the dockets of the district courts of Dallas county being such as to require immediate relief by the creation of a criminal district court for said county, creates an imperative public necessity and emergency that requires that the constitutional rule requiring bills to be read on three several days be suspended, and that this bill be placed upon its third reading and passage without being so read; and that this act take effect from and after its passage, and it is accordingly so enacted.

Approved May 4, A. D. 1893.

FELLOW SERVANTS.

CHAP. 91.—[S. B. No. 158.] An act to define who are fellow servants, and who are not fellow servants, and to prohibit contracts between employer and employes, based upon contingency of the injury or death of the employes, limiting the liability of the employer for damages.

Section 1. Be it enacted by the Legislature of the State of Texas: That all persons engaged in the service of any railway corporation, foreign or domestic, doing business in this State, or in the service of a receiver, manager, or of any person controlling or operating such corporation, who are entrusted by such corporation, receiver, or person in control thereof, with the authority of superintendence, control, or command of other persons in the employment of such corporation, or receiver, manager, or person in control of such corporation, or with the authority to direct any other employe in the performance of the duty of such employe, are vice principals of such corporation, receiver, manager, or person controlling the same, and are not fellow servants of such employe.

Sec. 2. That all persons who are engaged in the common service of such railway corporation, receiver, manager, or person in control thereof, and who, while so employed, are in the same grade of employment and are working together at the same time and place, and to a common purpose, neither of such persons being entrusted by such corporation, re-

ceiver, manager, or person in control thereof, with any superintendence or control over their fellow employes, or with the authority to direct any other employe in the performance of any duty of such employe, are fellow servants with each other: Provided, that nothing herein contained shall be so construed as to make employes of such corporation, receiver, manager, or person in control thereof, fellow servants with other employes engaged in any other department or service of such corporation, receiver, manager, or person in control thereof. Employes who do not come within the provisions of this section shall not be considered fellow servants.

Sec. 3. No contract made between the employer and employe, based upon the contingency of death or injury of the employe, limiting the liability of the employer under this act, or fixing damages to be recovered, shall be valid and binding.

Sec. 4. That all laws and parts of laws in conflict herewith are hereby repealed, and particularly the act passed by the Twenty-second Legislature on the subject of fellow servants, being chapter 24 of the acts of the Twenty-second Legislature.

Sec. 5. The fact that there are now no adequate laws for the protection of a large portion of our citizens, creates an emergency and an imperative public necessity requiring the suspension of the constitutional rule which requires bills to be read on three several days in each house, and the rule is hereby suspended; and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved May 4, A. D. 1893.

APPROPRIATION FOR PER DIEM PAY OF MEMBERS, OFFICERS, AND EMPLOYES.

CHAP. 92.—[H. B. No. 700.] *An act making an appropriation for the per diem pay of members, officers, and employes of the Twenty-third Legislature.*

Section 1. Be it enacted by the Legislature of the State of Texas: That the sum of twenty thousand dollars, or so much thereof as may be necessary, is hereby appropriated, out of the money in the treasury not otherwise appropriated, for the payment of the per diem pay of members, officers, and employes of the Twenty-third Legislature.

Sec. 2. The certificate of the Secretary of the Senate, approved by the President thereof, or of the Chief Clerk of the House of Representatives, approved by the Speaker thereof, shall be sufficient evidence to the Comptroller, upon which he shall audit the claims and issue his warrants upon the Treasurer for the respective amounts.

Sec. 3. And whereas the Twenty-third Legislature is now in session, and public policy requires their payment, therefore an imperative public necessity exists that the constitutional rule requiring bills to be read on three several days be suspended, and it is so suspended, and this act shall take effect from and after its passage.

Approved May 6, A. D. 1893.

APPROPRIATION TO DEFRAY CONTINGENT EXPENSES.

CHAP. 93.—[H. B. No. 701.] **An act making an appropriation to defray the contingent expenses of the Twenty-third Legislature.**

Section 1. Be it enacted by the Legislature of the State of Texas: That the sum of ten thousand dollars, or so much thereof as may be necessary, is hereby appropriated, out of any money in the treasury not otherwise appropriated, to pay the contingent expenses of the Twenty-third Legislature; that, except in cases of accounts for printing done and stationery furnished, the certificate of the chairman of the committee on contingent expenses that an account has been examined and approved by said committee, and countersigned by the President of the Senate or the Speaker of the House, as the case may be, shall be sufficient authority to authorize and require the Comptroller of Public Accounts to draw his warrant on the State Treasurer for the payment of any claim against such fund. The accounts for printing and stationery shall take the course prescribed by the Revised Statutes.

Sec. 2. The fact that it is important that the contingent expenses of the Legislature be promptly paid creates an emergency and an imperative public necessity that the constitutional rule requiring that bills be read on three several days be suspended, and that this act take effect from its passage. It is so enacted.

Approved May 6, A. D. 1893.

CONVICT FARMS—PURCHASE OF, AUTHORIZED.

CHAP. 94.—[S. B. No. 22.] **An act to authorize the penitentiary board to purchase agricultural lands for the purpose of utilizing convict labor on State farms, and to provide funds for that purpose.**

Section 1. Be it enacted by the Legislature of the State of Texas: That the penitentiary board be and they are hereby authorized to purchase and equip, with the consent of the Governor, agricultural lands or improved farms, to be by them selected with a view to productiveness of soil and accessibility to railroads, for the purpose of establishing thereon State farms, and employing thereon convict labor on State account.

Sec. 2. That upon making the purchases provided for in this act, the funds necessary therefor shall be loaned by the State board of education, when available, out of the permanent school fund, to the penitentiary board, on certificates of indebtedness issued by said penitentiary board officially, and countersigned by the Governor, and in a form to be prepared by the Attorney-General. Said loans shall bear interest at the rate of five per centum per annum, payable annually, for the available school fund, and the principal shall be payable back to the permanent school fund as follows: In twenty annual installments of \$15,000 each, the first of which shall be due and payable in five years from the date of said loan, and the remaining payments annually thereafter until the last of the twenty payments has been made. The penitentiary board shall, from time to time, make suitable provision for the payment of said in-

stallments and interest, out of the revenues of the State penitentiaries and State farms. The penitentiary board shall not make purchases under the provisions of this act amounting to more than three hundred thousand dollars in the aggregate: Provided, that before any purchase shall be made or money paid under the provisions of this act, the title to such lands shall be submitted to the Attorney-General of this State, and he shall file with the State board of education his opinion in writing as to his opinion of such title; and said State board of education shall not loan any of the school fund for the purchase of such lands until the Attorney-General shall file with said board a written opinion that the party selling such lands can convey a good and perfect title to said lands: Provided further, that all lands purchased under the provisions of this act shall be regarded and held in trust for the permanent school fund of the State until the return of the loan made for their purchase.

Approved May 4, A. D. 1893.

PRIVATE CORPORATIONS—REGULATING INCREASE OF CAPITAL STOCK.

CHAP. 95.—[S. B. No. 206.] An act to amend article 576, title 20, chapter 3, of the Revised Civil Statutes of the State of Texas, and to validate certain increase of capital stock of private corporations heretofore issued.

Section 1. Be it enacted by the Legislature of the State of Texas: That article 576, title 20, chapter 3, of the Revised Civil Statutes of the State of Texas, be amended so as to hereafter read as follows:

Article 576. Any corporation may increase its capital stock to any amount, not exceeding at any one time double the amount of its authorized capital, by a vote of the stockholders, in conformity with the by-laws thereof, and if a majority of the stockholders shall vote for the increase of the stock, the same may be increased by the board of directors, trustees, or other business managers of such corporation, and upon such increase of stock being made, in accordance with the by-laws, the date and amount shall be certified to the Secretary of State by the directors or trustees, and from the time such certificate is filed, the increase of stock shall become a part of the capital thereof. Such certificate shall be filed and recorded in the same manner as the charter: Provided, that no stock shall be issued except for money paid, labor done, or property actually received.

Sec. 2. That in all cases where the amount of the capital stock of any corporation has heretofore been increased by more than one increase thereof to an amount in excess of double the amount of the original capital, and such increase has been made with the sanction of the Secretary of State, under his construction of the law, such increase shall be, and the same is hereby, validated and declared legal.

Sec. 3. The fact that the Secretary of State has construed the existing law in conformity with this bill, and the fact that a reasonable doubt exists as to the correctness of such construction, and the further fact that many corporations, under such ruling, have by successive increase more than doubled the amount of their original capital stock, creates an emergency, and a public necessity exists that the constitutional rule requiring

bills to be read on three several days be and the same is hereby suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 26th day of April, A. D. 1893, but was not signed by him, nor returned to the house in which it originated, with his objections thereto, within the time prescribed by the Constitution, and thereupon became a law without his signature. Geo. W. Smith, Secretary of State.]

NEW COUNTIES—PAYMENT OF PRO RATA INDEBTEDNESS OF PARENT COUNTY.

CHAP. 96.—[S. S. B. No. 143.] An act to provide for the payment by new counties of their proportionate share of the indebtedness of the older counties from which they were created.

Section 1. Be it enacted by the Legislature of the State of Texas: That any county which has heretofore been created, or may hereafter be created, by the Legislature of the State of Texas, out of any other county or counties, shall be held liable for and bound to pay its proportion of all the liabilities of the county or counties from which it was taken, existing at the date of its creation of such new county, according to the proportionate value of the property in the excised territory, and the value of the property remaining in the old county, and a suit to recover the same may be brought by the parent county either in the district court of such parent county or in the district court of the newly created county, and the court shall have power to make any order or render any judgment necessary to carry out and satisfy its decree therein: Provided, that the provisions of this act shall not apply to any county the claims against which have already been placed before courts having jurisdiction thereof and tried or dismissed under laws that were at such time constitutional.

Sec. 2. Where any suit has been or shall be brought to enforce payment of the indebtedness created by the parent county or counties, or for the pro rata share of the excised territory, the assessment rolls of the parent county or counties for the year in which such new county was created shall be conclusive evidence of the property and value thereof remaining in the parent county and in the excised territory at the date of the creation of such new county: Provided, that when the new county was organized and made assessment rolls for the same year as that in which it was created, such rolls shall be taken as conclusive evidence of the property therein and the taxable values thereof at the date of the creation of such new county, and the assessment rolls of the parent county for the same year shall be conclusive evidence of the property and the value thereof remaining in the parent county at the date of the creation of such new county.

Sec. 3. All suits brought under this act are hereby declared to be of general public interest, and shall be given precedence upon the dockets of the courts of this State; and if the plaintiff shall recover, it shall be the duty of the commissioners court of the newly created county to levy a

special tax on all property in the territory taken from the plaintiff county sufficient to pay off the judgment, and if the first levy be insufficient, to make said levy annually till said judgment is satisfied, and the judgment of the court shall order said commissioners court to make such levies.

Sec. 4. Whereas the Constitution of the State of Texas provides that when any part of a county is stricken off and attached to or created into another county, the part stricken off shall be holden for, and obliged to pay its proportion of all the liabilities, then existing, of the county from which it was taken, in such manner as may be prescribed by law; and whereas there are in this State counties which have been created out of older counties, which were in debt at the time of the creation of such new county; and whereas there exists no remedy for the enforcement of their said constitutional right; therefore there exists an imperative emergency for the suspension of the rule requiring bills to be read on three several days, and the said rule is hereby suspended, in both the Senate and House of Representatives, and this act shall become a law, and take effect from and after its passage.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 26th day of April, A. D. 1893, but was not signed by him, nor returned to the house in which it originated, with his objections thereto, within the time prescribed by the Constitution, and thereupon became a law without his signature. Geo. W. Smith, Secretary of State.]

BRANDS, TRADE MARKS, ETC.

CHAP. 97.—[S. B. No. 238.] An act to provide for the registration of brands, trade marks, etc., of boxes, fountains, syphons, bottles, or other receptacles of carbonated goods, and providing penalties for violations of said act.

Section 1. Be it enacted by the Legislature of the State of Texas: That all manufacturers or dealers in carbonated goods, mineral waters, soda water, wine, cider, or other beverage, or manufacturers of medicine or other compound requiring the use of kegs, casks, barrels, boxes, syphons, bottles, or any other vessels for containers, upon which the names, brands, marks, or trade marks, or other designation of ownership or proprietorship is stamped, engraved, etched, blown in, impressed, or otherwise produced upon such boxes, syphons, bottles, or any other vessels for containers, may file in the office of the county clerk of the county in which the principal place or office of business is situated, a fac simile or description of the name or names, marks or devices, so used by such manufacturer or dealer in such wares herein enumerated, and cause such description to be published in a public newspaper published in such county for three successive weeks; and the act of so filing and causing to be recorded by the county clerk, and publishing, shall operate as a trade mark, securing to the said manufacturer the full protection of the law as a trade mark, entitling the said manufacturer to the sole and exclusive use in Texas of said mark, name, or device; for which services the clerk shall be allowed the sum of one dollar, to be paid by the party having such brands, etc., recorded.

Sec. 2. It is hereby declared to be unlawful for any person or persons, corporate or otherwise, other than the proprietor, or by his written consent, to fill for the purpose of traffic, or for sale, with any compound whatever, any box, syphon, bottle, or other container so marked, recorded in the office of the county clerk, and published as aforesaid, or to deface, erase, obliterate, cover up, or otherwise remove or cancel any such mark or device.

Sec. 3. To knowingly and wilfully have in possession otherwise than by contract with the proprietor of the goods herein enumerated, or with his duly accredited agents, any of the vessels herein enumerated, or to use, buy, sell, or dispose of any such vessel, with or without contents of any kind, except by authority of the proprietor, or to wantonly and wilfully break, damage, mar, injure, or destroy any such vessel, is declared hereby to be *prima facie* evidence of such unlawful use, and shall constitute a misdemeanor, punishable by fine upon conviction in a court of competent jurisdiction, an employe being equally liable with the principal so offending.

Sec. 4. Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction before a justice of the peace shall be fined for such unlawful use of each and every box five dollars; for each and every syphon, five dollars; for each and every bottle, five dollars; and for every other receptacle, except a fountain, five dollars; and for each fountain, twenty-five dollars; the fines so designated to be the minimum in each case, the maximum not to exceed double the minimum.

Sec. 5. All moneys collected as fines or penalty, under the provisions of this act, shall be returned by the justice of the peace into the county treasury, to become a part of the public road fund.

Sec. 6. The great number of bills now on the calendar, and the near approach of the close of the session, rendering it improbable that the bills can be read on three several days, creates an imperative public necessity for the suspension of the constitutional rule requiring bills to be read on three several days, and said rule is hereby suspended.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 26th day of April, A. D. 1893, but was not signed by him, nor returned to the house in which it originated, with his objections thereto, within the time prescribed by the Constitution, and thereupon became a law without his signature. Geo. W. Smith, Secretary of State.]

APPROPRIATIONS FOR THE SUPPORT OF THE STATE GOVERNMENT, ETC.

CHAP. 98.—[S. H. B. No. 116.] An act making appropriation for the support of the State Government for the years beginning March 1, 1893, and ending February 28, 1895, to cover deficiencies, and for other purposes.

Section 1. Be it enacted by the Legislature of the State of Texas: That the following sums of money, or so much thereof as may be necessary, are hereby appropriated, out of any money in the treasury not otherwise appropriated, for the support of the State government, for the years beginning March 1, 1893, and ending February 28, 1895, to cover deficiencies, and for other purposes:

	Year ending—	
	Feb. 28, 1894,	Feb. 28, 1895.
Executive Office.		
Salary of Governor.....	\$4,000 00	\$4,000 00
Salary of private secretary.....	2,000 00	2,000 00
Salary of stenographic clerk and clerk of Penitentiary Board	1,500 00	1,500 00
Salary and expenses of revenue agent....	2,500 00	2,500 00
Salary of porter.....	480 00	480 00
Payment of rewards, and other contingent expenses necessary in the enforcement of the law	15,000 00	15,000 00
Books, stationery, periodicals and newspapers	350 00	350 00
Freight, postage and telegraphing.....	800 00	800 00
Contingent expenses	300 00	300 00
Payment balance fee of special counsel in the Greer county case, in the Supreme Court of the United States, and for collecting testimony for the State therein, including the services and expenses of a person versed in the Spanish language, and for the traveling expenses of the Attorney-General, while actually engaged in collecting such testimony and attending the Supreme Court at Washington, in said case, or so much thereof as may be necessary, to be paid out and expended under the direction of the Governor....	10,000 00	10,000 00
Governor's Mansion and Grounds.		
For Governor's mansion and furniture, including repairs to mansion and improvement of grounds surrounding mansion..	1,250 00	500 00
Gardener and labor, and keeping up of grounds surrounding mansion.....	840 00	840 00
Water and ice.....	200 00	200 00
Fuel and lights.....	500 00	500 00
Contingent expenses for mansion and grounds	300 00	300 00

State Department.

	Year ending—	
	Feb. 28, 1894,	Feb. 28, 1895.
Salary of Secretary of State.....	\$2,000 00	\$2,000 00
Salary of chief clerk.....	1,800 00	1,800 00
Salary of two first assistant clerks.....	2,800 00	2,800 00
Salary of one second assistant clerk.....	1,000 00	1,000 00
Salary of one second assistant clerk.....	900 00	900 00
Salary of one porter.....	420 00	420 00
Extra clerks to copy laws.....	300 00	
Freight, postage, and express.....	1,500 00	1,500 00
Books and stationery.....	400 00	400 00
Furniture and files.....	100 00	100 00
Contingent expenses.....	100 00	100 00

Treasurer's Department.

Salary of Treasurer.....	2,500 00	2,500 00
Salary of chief clerk.....	2,000 00	2,000 00
Salary of bookkeeper.....	1,600 00	1,600 00
Salary of assistant bookkeeper.....	1,200 00	1,200 00
Salary of receiving clerk.....	1,500 00	1,500 00
Salary of corresponding clerk.....	1,400 00	1,400 00
Salary of two bookkeepers in land department at \$1400 each per annum.....	2,800 00	2,800 00
Salary of examining clerk.....	1,400 00	1,400 00
Salaries of seven assistant bookkeepers in land department at \$1200 each.....	8,400 00	8,400 00
Salary of porter, who acts as messenger and collector	600 00	600 00
Books and stationery.....	500 00	500 00
Postage	750 00	750 00
Contingent expenses.....	200 00	200 00
Keeping in repair time locks, combination, and vaults.....	150 00	150 00
Salary of night watchman.....	900 00	900 00
Office furniture and files.....	150 00	150 00
To refund to purchasers of public domain and other public lands the money paid by them into the State Treasury as purchase money on lands for which they have been unable to acquire title for the reason mentioned in the Act of April 14, 1883, page 113, General Laws (one-half to be paid out of general revenue and the other half out of permanent school fund), these being the funds to which the said payments are credited, to be expended within two years.....	15,000 00	

Comptroller's Office.

Salary of Comptroller.....	2,500 00	2,500 00
Salary of chief clerk.....	1,800 00	1,800 00
Salary of bookkeeper.....	1,800 00	1,800 00

	Year ending—	
	Feb. 28, 1894,	Feb. 28, 1895.
Salary of assistant bookkeeper.....	\$1,400 00	\$1,400 00
Salaries of two sheriffs' clerks, witnesses, and attorney accountants, at \$1500 each	3,000 00	3,000 00
Salary of clerk for registering city, county, and other bonds.....	1,500 00	1,500 00
Salary of clerk who shall perform such du- ties as may be required of him by the Comptroller	1,200 00	1,200 00
Salary of receiving clerk.....	1,500 00	1,500 00
Salaries of two warrant clerks, at \$1500 each	3,000 00	3,000 00
Salaries of three corresponding clerks, at \$1400 each	4,200 00	4,200 00
Salary of chief tax clerk.....	1,500 00	1,500 00
Salary of redemption clerk.....	1,400 00	1,400 00
Salary of examining clerk.....	1,400 00	1,400 00
Salaries of two auditing clerks, at \$1400 each	2,800 00	2,800 00
Salary of one deposit warrant clerk.....	1,400 00	1,400 00
Salaries of ten first assistant clerks, at \$1250 each.....	12,500 00	12,500 00
Salaries of ten second assistant clerks, at \$1000 each	10,000 00	10,000 00
Salary of five assistant clerks, at \$900 each	4,500 00	4,500 00
Salaries of one messenger and one porter, \$360 each.....	720 00	720 00
Salary of one night watchman.....	600 00	600 00
Telegraphing, contingent, postage, and as- sessment rolls.....	4,000 00	4,000 00
Books, stationery, and binding rolls.....	3,000 00	3,000 00

General Land Office.

Salary of Commissioner.....	2,500 00	2,500 00
Salary of chief clerk.....	1,800 00	1,800 00
Salary of Spanish clerk.....	1,600 00	1,600 00
Salary of receiving clerk.....	1,800 00	1,800 00
Salary of first assistant clerk.....	1,500 00	1,500 00
Salary of examining clerk.....	1,500 00	1,500 00
Salaries of three corresponding clerks, at \$1260 each	3,780 00	3,780 00
Salary of chief patent clerk.....	1,350 00	1,350 00
Salaries of two assistant patent clerks, at \$1200 each	2,400 00	2,400 00
Salaries of two abstract clerks, at \$1200 each	2,400 00	2,400 00
Salary of two filing clerks.....	2,400 00	2,400 00
Salary of one files room clerk.....	1,200 00	1,200 00
Salaries of four general clerks, at \$1080 each	4,320 00	4,320 00
Salaries of two transcript clerks, at \$1200	2,400 00	2,400 00
Salary of chief draftsman.....	1,800 00	1,800 00
Salary of six compiling draftsmen, at \$1500 each	9,000 00	9,000 00

	Year ending—	
	Feb. 28, 1894,	Feb. 28, 1895.
Salaries of seven assistant compiling draftsmen, at \$1200 each.....	\$8,400 00	\$8,400 00
Salary of letter register.....	1,200 00	1,200 00
Salary of letter register.....	1,200 00	1,200 00
Salary of index clerk.....	1,200 00	1,200 00
Salary of one additional transcript clerk, to be used when needed for nine months	900 00	900 00
Salary of night watchman.....	600 00	600 00
Salary of one porter.....	480 00	480 00
Stationery, books and furniture.....	2,000 00	2,000 00
Postage, telegraphing, and contingent....	1,500 00	1,500 00
Wood	250 00	250 00
Lithographic maps.....	1,000 00	1,000 00
Water and repairs to fixtures.....	500 00	500 00
Repairs on building and building additional room	2,000 00	2,000 00
The following are the desks in the school land department necessary for the classification, sale and lease of school, university, and several asylum lands:		
One chief clerk, who transmits all moneys received for purchase and lease of such lands, and assigns the work of the department	1,600 00	1,600 00
One clerk, head of lease department, who conducts the business and does the correspondence for that branch of the department	1,300 00	1,300 00
One classifier, who classifies, when necessary, the school, university, and several asylum lands, and has charge of forfeitures and cancellations by decree of court	1,300 00	1,300 00
One bookkeeper	1,400 00	1,400 00
One chief corresponding clerk.....	1,400 00	1,400 00
Two assistant corresponding clerks at \$1200 each	2,400 00	2,400 00
Two lease clerks, at \$1200 each.....	2,400 00	2,400 00
Two sales clerks, at \$1200 each.....	2,400 00	2,400 00
Two draftsmen, who make sketches and examine maps, at \$1200 each.....	2,400 00	2,400 00
One copying clerk.....	1,200 00	1,200 00
One clerk who issues duplicate receipts and files originals.....	1,200 00	1,200 00
Attorney-General's Office.		
Salary of Attorney-General.....	2,000 00	2,000 00
And the further sum each year, or so much thereof as may be necessary, to pay such fees as may be prescribed by law..	2,000 00	2,000 00
Salary of first office assistant.....	2,500 00	2,500 00
Salary of second office assistant.....	2,250 00	2,250 00

	Year ending—	
	Feb. 28, 1894,	Feb. 28, 1895.
Salary of third office assistant.....	\$2,000 00	\$2,000 00
Salary of stenographic clerk.....	1,400 00	1,400 00
Salary of filing and recording clerk.....	1,200 00	1,200 00
Stationery	200 00	200 00
Postage..	200 00	200 00
Telegraphing	100 00	100 00
Law books and periodicals.....	250 00	250 00
Cost of depositions and procuring evidence	500 00	500 00
Porter and messenger hire.....	420 00	420 00
Actual traveling expenses incurred by At- torney-General or any of his assistants in giving attention to the State's busi- ness pending elsewhere than in the courts held in the city of Austin. Vouchers to be made under official cer- tificate	600 00	600 00
Contingent expenses, including type-writ- er's desk, file cases for the past two years	250 00	100 00
Adjutant-General's Office.		
Salary of Adjutant-General.....	2,000 00	2,000 00
Salary of chief clerk.....	1,200 00	1,200 00
Salary of porter.....	360 00	360 00
Stationery, postage and telegraphing....	400 00	400 00
Incidental expenses	50 00	50 00
Handling and transportation of ordnance and repair of arms.....	500 00	500 00
Inspection of arms and troops.....	500 00	500 00
Protection of the frontier and suppres- sion of lawlessness and crime.....	40,000 00	40,000 00
Payment of Texas Volunteer Guard when called into active service under the law, and for expenses incurred in holding an- nual encampments at such time and place as may be designated by the Gov- ernor, including transportation of troops to and from encampments, commutation of rations, and for all other military ex- penses, payment to be made upon ap- proval of the Governor.....	20,000 00	20,000 00
Engine, pumps, and tanks.....	3,500 00	
Railway Commission.		
Salary of three commissioners.....	12,000 00	12,000 00
Salary of secretary.....	2,000 00	2,000 00
Salary of two regular clerks at \$1500 each	3,000 00	3,000 00
Pay of experts and other necessary ex- penses	15,000 00	15,000 00
Transportation of members of commis- sion, secretary, and clerks.....	1,500 00	1,500 00
Sheriffs and witness fees and mileage, to be used as needed.....	4,500 00	4,500 00

	Year ending—	
	Feb. 28, 1894,	Feb. 28, 1895.
Postage, stationery and books, and telegraphing	\$1,250 00	\$1,250 00
Office furniture, fixtures, and files.....	250 00	250 00
Contingent expenses	100 00	100 00
Department of Agriculture, Insurance, Statistics, and History.		
Salary of Commissioner.....	2,000 00	2,000 00
Salary of chief clerk.....	1,800 00	1,800 00
Salary of bookkeeper.....	1,200 00	1,200 00
Salary of agricultural clerk.....	1,500 00	1,500 00
Salary of historical clerk.....	1,500 00	1,500 00
Salary of statistical clerk.....	1,200 00	1,500 00
Salary of librarian and office assistant....	360 00	360 00
Additional clerk hire, to be used if necessary	230 00	
Subscriptions for newspapers and magazines and building [binding].....	200 00	200 00
Books for State library.....	1,000 00	1,000 00
Necessary expenses in collecting historical data relating to Texas.....	500 00	500 00
Contingent expenses and telephone.....	250 00	250 00
Payment of necessary expenses of Commissioner in enforcing insurance laws..	200 00	200 00
Postage, stationery, and express.....	1,400 00	1,400 00
Purchase of book cases and shelving....	200 00	
Continuing geological survey and the lignite investigation: Provided, that the clerk under this appropriation may be paid not to exceed \$75 per month: Provided further, that the State Geologist (and not to exceed three geologists) may be paid out of this appropriation, not to exceed \$2000 each per annum..	20,000 00	
Public Printing.		
For first, second, and third classes of public printing and binding and for printing papers for first and second classes of public printing	31,600 00	31,600 00
Salary of State expert printer and secretary of the State board of public printing (who shall read the proofs and supervise the printing, binding, and delivery of the reports of the Supreme and Appellate Courts	2,000 00	2,000 00
Advertising for supplies for the asylums	1,000 00	1,000 00
Publishing Supreme Court Reports.....	2,650 00	2,650 00
Publishing Court Criminal Appeals Reports	2,650 00	2,650 00
Publishing Courts of Civil Appeals Reports..	8,000 00	8,000 00

Public Buildings and Grounds.

	Year ending—	
	Feb. 28, 1894.	Feb. 28, 1895
Salary of Superintendent.....	\$1,800 00	\$1,800 00
Salary of engineer.....	1,350 00	1,350 00
Salary of assistant engineer, who shall perform all work required of him by the Superintendent	900 00	900 00
Salary of two firemen.....	1,200 00	1,200 00
Salary of four watchmen, at \$720 each per annum	2,880 00	2,880 00
Salary of extra watchman.....	200 00	200 00
Salaries of four cleaners, at \$360 each per annum	1,440 00	1,440 00
Salary of elevator man.....	720 00	720 00
Labor for looking after sewer and keeping cemetery and capitol building grounds in order	500 00	500 00
Repairing sewer	300 00	300 00
Headstones to mark the Confederate graves in State cemetery	300 00	300 00
Water, fuel, lights, and contingencies....	10,000 00	10,000 00
Oil and waste for steam pumps and packing, oil for furniture and wainscoting, drawing paper for plans, and stationery, oil for lamps	500 00	500 00
Flags	100 00	100 00
Radiator in judges' rooms on fourth floor..	1,200 00	
Enlarging engine house and building coal house, and for purchase of two boilers.	4,000 00	
Rebuilding tunnel and covering steam pipes	3,000 00	
Repairs and painting for two years.....	5,000 00	
Tools	100 00	

Judiciary Department.

Salaries of fifty-four district judges.....	135,000 00	135,000 00
Salaries of thirty-eight district attorneys.	19,000 00	19,000 00
Salary of criminal district attorney.....	500 00	500 00
Salaries of two criminal district judges...	5,000 00	5,000 00
Fees and costs of sheriffs, clerks, and attorneys in felony cases.....	425,000 00	425,000 00
Salaries of special judges.....	10,000 00	10,000 00
Fees of county judges, justices of the peace, sheriffs, and constables in examining trials	20,000 00	20,000 00
Expenses of attaching witnesses: Provided, that the Comptroller shall approve no claims of any person attached as a witness while under indictment for a felony in the same court in which he is attached to testify.....	125,000 00	125,000 00
Salary of Supreme Court Reporter.....	3,000 00	3,000 00
Salary of Criminal Court of Appeals Reporter	3,000 00	3,000 00
Post mortem examination of convicts....	300 00	300 00

	Year ending—	
	Feb. 28, 1894,	Feb. 28, 1895.
Clerks' and sheriffs' fees in all civil cases, when such costs are adjudged against the State, or where such cost can not be recovered from the defendant, in which only such costs as are incurred by the State in such civil cases shall be paid out of this fund	\$10,000 00	\$10,000 00
Salary of Assistant Supreme Court Reporter for reporting for the Court of Civil Appeals at Galveston and Fort Worth.....	3,000 00	3,000 00
Supreme Court.		
Salary of three judges.....	12,000 00	12,000 00
Record books and stationery.....	500 00	500 00
Clerk's salary.....	2,500 00	2,500 00
Stenographer's salary	287 08	
Salary of librarian at Austin.....	720 00	720 00
Salary of bailiff.....	300 00	300 00
Porter hire.....	720 00	720 00
Purchase of books for consultation room at Austin.....	200 00	200 00
Purchase of books for Supreme Court library.....	1,500 00	1,500 00
Postage.....	150 00	150 00
Contingent expenses.....	500 00	500 00
Book cases for library.....	600 00	600 00
Court of Criminal Appeals.		
Salary of three judges.....	12,000 00	12,000 00
Sheriff's attendance on the court.....	300 00	300 00
Postage.....	300 00	300 00
Contingent expenses.....	300 00	300 00
Fuel and lights.....	200 00	200 00
Law books, to be selected by the presiding judge.....	250 00	250 00
Record books and stationery.....	750 00	750 00
Furniture.....	100 00	100 00
Salary, fees, and traveling expenses of Attorney-General..	3,000 00	3,000 00
Salary of stenographic clerk, who shall also act as clerk for Assistant Attorney-General.....	287 08	
Porter hire.....	360 00	360 00
Salary of librarian at Tyler.....	300 00	300 00
Telegraphing and contingent expenses for Attorney-General.....	50 00	50 00
Clerk's fees in criminal cases, or so much thereof as may be necessary.....	4,000 00	4,000 00

Court of Civil Appeals—First Supreme Judicial District.	Year ending—	
	Feb. 28, 1894,	Feb. 28, 1895.
Salary of three judges.....	\$10,500 00	\$10,500 00
Salary of stenographer.....	230 00	
Salary of porter.....	360 00	360 00
Record books and stationery.....	500 00	500 00
Fuel and lights.....	250 00	250 00
Postage.....	150 00	150 00
Contingent expenses....	150 00	150 00
Furniture.....	250 00	250 00
Books for library and consultation room..	500 00	500 00
Sheriff's attendance.....	300 00	300 00
Court of Civil Appeals—Second Judicial District.		
Salary of three judges.....	10,500 00	10,500 00
Salary of stenographer.....	230 00	
Salary of bailiff.....	300 00	300 00
Salary of porter.....	360 00	360 00
Postage.....	150 00	150 00
Record books and stationery.....	500 00	500 00
Books for library and consultation.....	500 00	500 00
Fuel and lights.....	250 00	250 00
Contingent expenses....	150 00	150 00
Furniture.....	250 00	250 00
Court of Civil Appeals—Third Supreme Judicial District.		
Salary of three judges.....	10,500 00	10,500 00
Salary of stenographer.....	230 00	
Porter hire	360 00	360 00
Record books and stationery.....	500 00	500 00
Postage.....	150 00	150 00
Contingent expenses....	150 00	150 00
Furniture.....	250 00	250 00
Iron safe	275 00	
Law books for consultation room.....	250 00	250 00
Pensions.		
Pay of veterans under general laws.....	70,000 00	70,000 00
Pay of Dillard Cooper, special pensioner..	250 00	250 00
Pay of M. B. Irwin, special pensioner.....	150 00	150 00
Pay of P. H. Bell, special pensioner.....	150 00	150 00
Pay of Madam Candelaria, special pen- sioner	150 00	150 00
Pay of D. G. Webb, special pensioner.....	100 00	100 00
Pay of Mrs. S. L. Cole, special pensioner..	150 00	150 00

Quarantine Department.

	Year ending—	
	Feb. 28, 1894.	Feb. 28, 1895.
Pay of officers, employes, transportation, supplies, and all other necessary expenses legally incurred	\$45,000 00	\$45,000 00
The State health officer is authorized, if he believes it to be to the best interest of the State, to sell the boat "Bessie Ross" to the best advantage, and the proceeds therefrom to be paid into the treasury of the State, and appropriated to the payment of the above appropriation for quarantine purposes.		

Public Debt.

Payment of interest on public debt.....	252,042 50	252,042 50
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State Lunatic Asylum at Austin.

Salary of superintendent	2,000 00	2,000 00
Salary of first assistant physician.....	1,500 00	1,500 00
Salary of second assistant physician.....	1,500 00	1,500 00
Salary of steward and bookkeeper.....	1,000 00	1,000 00
Salary of matron	600 00	600 00
Salary of apothecary	600 00	600 00
Salary of supervisor	480 00	480 00
Salary of supervisoress	480 00	480 00
Salary of outside supervisor	600 00	600 00
Salary of engineer	1,000 00	1,000 00
Salary of first assistant engineer and electrician	720 00	720 00
Salary of second assistant engineer and mechanic	480 00	480 00
Salary of gardener	360 00	360 00
Salary of chief cook.....	600 00	600 00
Salary of first assistant cook.....	300 00	300 00
Salary of second assistant cook.....	240 00	240 00
Salary of third assistant cook.....	240 00	240 00
Salary of baker	480 00	480 00
Salary of carpenter	720 00	720 00
Salary of assistant carpenter.....	480 00	480 00
Salary of blacksmith	360 00	360 00
Salary of two firemen, at \$30 each per month	720 00	720 00
Salary of seven night watchmen, at \$30 each per month	2,520 00	2,520 00
Salary of head laundress.....	360 00	360 00
Salary of two skilled nurses, \$30 each per month	720 00	720 00
Salary of assistant head laundress.....	300 00	300 00
Salary of six laundresses.....	1,440 00	1,440 00
Salary of head seamstress	300 00	300 00
Salary of seven seamstresses	1,680 00	1,680 00
Salary of fifty attendants for first year and fifty-five for second year.....	12,000 00	13,200 00

	Year ending—	
	Feb. 28, 1894.	Feb. 28, 1895.
Salary of three farm hands.....	\$720 00	\$720 00
Salary of dairyman	360 00	360 00
Plasterer and painter	480 00	480 00
Salary of storekeeper	360 00	360 00
Salary of three dining room girls and chambermaids	720 00	720 00
Salary of scavenger	240 00	240 00
Groceries, fuel, light, water, etc.....	65,000 00	70,000 00
Dry goods, clothing, etc.....	12,000 00	15,000 00
Furniture, beds, etc.....	3,000 00	2,000 00
General repairs	5,000 00	3,000 00
Transportation of patients	1,500 00	1,500 00
Medical stores	2,000 00	2,000 00
Literature and music	500 00	500 00
Contingent expenses	800 00	800 00
Cows, horses, mules, and hogs.....	1,000 00	500 00
Hacks, wagons, harness, and farm tools..	500 00	250 00
Trees, seeds, and flowers.....	125 00	125 00
Laundry machinery	500 00	250 00
Fencing and repairing fences on farms and grounds	1,000 00	500 00
Repairing and renovating steam heating in male department	2,250 00	
Water tower	9,086 50	
Hose and hose carts	1,500 00	
Engineers' and carpenters' tools	500 00	
Erecting three laboratory buildings and re- pairing water closets in old building....	15,000 00	
Engine for running engineers' and carpen- ters' machinery	300 00	
100-horse power high pressure boiler to re- place old one	850 00	
One 6x4 steel boiler for receiver.....	150 00	
Doors and door frames, windows and win- dow frames, locks for doors, and locks and screws for windows for entire male department, to be expended within two years	5,000 00	
Provided, that the interest on all securi- ties held by the lunatic asylum fund is hereby appropriated in part payment of the appropriation of the three lunatic asylums, the remainder of the appropria- tion to be paid out of the general reve- nue. All moneys now in, or which may hereafter be paid into the treasury for the board and treatment of nonindigent patients and from sale of the personal property of the lunatic asylums at Aus- tin, Terrell, and San Antonio, shall be paid over to the State Treasurer monthly, and credited by him to the general reve- nue.		

North Texas Insane Asylum.

	Year ending—	
	Feb. 23, 1894,	Feb. 23, 1895.
Salary of superintendent	\$2,000 00	\$2,000 00
Salary of first assistant physician	1,500 00	1,500 00
Salary of second assistant physician	1,500 00	1,500 00
Salary of bookkeeper and steward	1,000 00	1,000 00
Salary of apothecary	600 00	600 00
Salary of matron	600 00	600 00
Salary of head farmer	480 00	480 00
Salary of storekeeper	480 00	480 00
Salary of engineer and plumber	720 00	720 00
Salary of ward supervisor	480 00	480 00
Salary of ward supervisoress	480 00	480 00
Salary of carpenter	720 00	720 00
Salary of assistant carpenter	480 00	480 00
Salary of assistant engineer and mechanic	480 00	480 00
Salary of three firemen	1,080 00	1,080 00
Salary of painter and plasterer	480 00	480 00
Salary of gardener	480 00	480 00
Salary of assistant gardener	240 00	240 00
Salary of scavenger	240 00	240 00
Salary of three farm hands, at \$20 each per month	720 00	720 00
Salary of first cook	600 00	600 00
Salary of first assistant cook	300 00	300 00
Salary of second assistant cook	300 00	300 00
Salary of third assistant cook	240 00	240 00
Salary of baker	480 00	480 00
Salary of assistant baker	240 00	240 00
Salary of head laundress	360 00	360 00
Salaries of eight laundresses	1,920 00	1,920 00
Salary of one head seamstress	300 00	300 00
Salaries of six seamstresses	1,440 00	1,440 00
Salaries of sixty-four attendants, or so many thereof as may be necessary, who shall receive an average salary of \$20 per month	15,360 00	15,360 00
Salaries of three special nurses	900 00	900 00
Salary of one outside watchman	360 00	360 00
Salary of five night watchmen	1,800 00	1,800 00
Salary of one dairyman	360 00	360 00
Salary of one assistant dairyman	240 00	240 00
Groceries, fuel, light, and water	75,000 00	80,000 00
Transportation	1,500 00	1,500 00
Contingent expenses	1,200 00	1,200 00
Dry goods and clothing	12,000 00	15,000 00
Medical stores	2,500 00	2,500 00
Trees, seeds, and stock	250 00	250 00
Wagons, hacks, and harness	500 00	500 00
Carpenters' tools	150 00	100 00
Engineers' tools	200 00	100 00
Mowers, plows, and farm implements	350 00	350 00
Furniture and beds	2,000 00	2,000 00

	Year ending—	
	Feb. 28, 1894.	Feb. 28, 1895.
General repairs and preservation.....	\$5,000 00	\$3,000 00
Painting wards and outside of building...	1,000 00	1,000 00
Expenses of board to Austin.....	150 00	150 00
Mules, horses, and cows.....	1,000 00	
Literature and amusements.....	500 00	500 00
For hose and ladder and for additional fire protection.....	1,200 00	
Completing building, and piping, heating, and furnishing female infirmary	2,000 00	
Enlarging cow barn.....	250 00	
Enlarging horse barn.....	250 00	
Building meat shop and refrigerator.....	1,000 00	
Building dairy and refrigerator.....	1,000 00	
Repairing furnaces, and for purchase of fuel economizer.....	2,000 00	
Additional laundry machinery.....	1,000 00	
Building coal sheds.....	300 00	
Repairing galleries of old building.....	1,000 00	
Bridges, culverts, and grounds.....	300 00	
Fencing.....	250 00	
Building cribs.....	500 00	
Purchasing engine.....	1,000 00	
Tiling for drainage.....	500 00	
Boiler and engine house and moving boilers	5,000 00	
Purchase of platform scales.....	150 00	
Purchase of fire-proof safe.....	300 00	
Painting standpipe.....	100 00	

Southwestern Insane Asylum.

Salary of superintendent.....	2,000 00	2,000 00
Salary of assistant superintendent.....	1,500 00	1,500 00
Salary of bookkeeper and steward.....	1,000 00	1,000 00
Salary of matron and supervisors.....	480 00	480 00
Salary of supervisor and assistant steward.	480 00	480 00
Salary of engineer and plumber.....	720 00	720 00
Salary of chief farmer and outside supervisor	480 00	480 00
Salary of additional gardener	360 00	360 00
Salary of chief cook	480 00	480 00
Salary of first assistant cook.....	300 00	300 00
Salary of second assistant cook.....	240 00	240 00
Salary of baker.....	480 00	480 00
Salary of carpenter.....	480 00	480 00
Salary of two firemen.....	720 00	720 00
Salaries of two night watchmen.....	720 00	720 00
Salary of head laundress.....	360 00	360 00
Salary of three laundresses.....	720 00	720 00
Salary of head seamstress.....	300 00	300 00
Salary of one seamstress.....	240 00	240 00
Salaries of two skilled nurses.....	600 00	600 00

	Year ending—	
	Feb. 28, 1894.	Feb. 28, 1895.
Salaries of twenty attendants, or so many thereof as may be necessary, to be paid \$20 per month each	\$4,800 00	\$4,800 00
Salary of two farm hands	480 00	480 00
Salary of one dairyman	300 00	300 00
Groceries and provisions	22,000 00	22,000 00
Dry goods, bedding, and clothing	3,500 00	3,500 00
Additional ward furniture	1,500 00	1,500 00
Transportation of patients	500 00	500 00
Water, fuel, and lights	5,000 00	4,500 00
Fencing farm	500 00	500 00
Medical stores and instruments	1,000 00	1,000 00
General repairs	500 00	500 00
Contingent expenses	500 00	500 00
Expenses of Board of Managers to Austin	150 00	150 00
Wagons, hacks, and harness	250 00	250 00
Literature and music	300 00	300 00
Trees, seeds, and tools	250 00	250 00
Cows and swine	600 00	600 00
Horses and mules	500 00	500 00
Repairs of administration and ward buildings	3,000 00	
Erection of telephone line to connect with San Antonio	500 00	
One fire proof safe	250 00	
Stand pipe, pump, pipe, and piping	4,500 00	

Institute for the Blind.

Salary of superintendent	2,000 00	2,000 00
Salary of oculist	900 00	900 00
Salary of steward and bookkeeper	720 00	720 00
Salary of matron	480 00	480 00
Salary of assistant matron	400 00	400 00
Salaries of teachers in school, music, kindergarten, shops, etc.	9,500 00	9,500 00
Salary of one music teacher	450 00	450 00
Salaries of two nurses and children attendants	450 00	450 00
Salary of teacher of sewing and seamstress	400 00	400 00
Salary of one monitor, and boys' attendant	270 00	270 00
Salary of one night watchman	500 00	500 00
Salary of one engineer, and one assistant	1,000 00	1,000 00
Salaries of cooks and baker	900 00	900 00
Salaries of laundresses	800 00	800 00
Transportation of indigent pupils, to be paid out on vouchers filed	900 00	1,000 00
Furnishing fund, school apparatus, books, etc.	2,000 00	1,500 00
Clothing for indigent pupils	900 00	1,000 00
Pianos, Organs, and orchestral instruments	4,000 00	

	Year ending—	
	Feb. 28, 1894.	Feb. 28, 1895.
Water for fire protection (contract).....	\$500 00	\$500 00
Groceries, provisions, contingent expenses, and miscellaneous, including \$5 per month for each of five trustees, and printing necessary for benefit of school.	22,500 00	23,000 00
Ordinary repairs on premises	2,000 00	1,500 00

Deaf and Dumb Asylum.

Salary of superintendent	2,000 00	2,000 00
Salary of principal and teacher.....	1,500 00	1,500 00
Salary of first assistant teacher.....	1,000 00	1,000 00
Salaries of second, third, and fourth assist- ant teachers	2,500 00	2,500 00
Salaries of fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, and thir- teenth assistant teachers	5,400 00	5,400 00
Salaries of two additional teachers	960 00	960 00
Salary of articulation teacher	720 00	720 00
Salary of assistant articulation teacher...	600 00	600 00
Salary of art teacher	600 00	600 00
Salary of secretary and steward	800 00	800 00
Salaries of matron and one assistant, \$480.00 each	960 00	960 00
Salary of night watchman	360 00	360 00
Salaries of gardener and two laborers....	900 00	900 00
Salaries of five washers and ironers.....	900 00	900 00
Salary of baker	360 00	360 00
Salaries of first cook and assistant cook..	600 00	600 00
Salary of engineer	1,000 00	1,000 00
Salary of monitor	480 00	480 00
Salary of two monitresses	720 00	720 00
Salary of expert book binder	720 00	720 00
Salary of expert printer	900 00	900 00
Salary of expert shoemaker	720 00	720 00
Salary of expert carpenter	720 00	720 00
Supplies and provisions, which shall in- clude the pay of trustees, five dollars each per month, for services attending business meetings of the board	20,000 00	22,000 00
For water for fire protection	1,000 00	1,000 00
Furnishing fuel	1,500 00	1,500 00
Clothing and transportation of indigent pupils	1,000 00	1,000 00
Art supplies	400 00	400 00

Provided, that the interest on all securi-
ties held by the deaf and dumb asylum
fund is hereby appropriated in part pay-
ment of the above appropriations, the re-
mainder of the appropriations to be paid
out of the general revenue.

Deaf, Dumb, and Blind Asylum for Colored Youths.	Year ending—	
	Feb. 28, 1894,	Feb. 28, 1895.
Salary of superintendent	\$1,500 00	\$1,500 00
Salary of one principal teacher at \$75 per month	675 00	675 00
Salaries of three assistant teachers at \$50 per month	1,350 00	1,350 00
Salary of one music teacher	500 00	500 00
Salary of one shoemaker	450 00	450 00
Salary of one seamstress	300 00	300 00
Salary of matron	360 00	360 00
Salary of oculist	600 00	600 00
Salary of night watchman	300 00	300 00
Salary of engineer and plumber	500 00	500 00
Salary of cook and assistant cook	495 00	495 00
Salary of laundresses	440 00	440 00
Salary of gardener and farmer	300 00	300 00.
Transportation of indigent pupils	400 00	400 00
Clothing for indigent pupils	450 00	450 00
Repairs	700 00	700 00
Furniture, to be expended, if needed, in two years	250 00	
Improving grounds	100 00	100 00
Tools and apparatus for workshop.....	200 00	200 00
Electric lights	100 00	100 00
Groceries, provisions, miscellaneous, which shall include pay of members of the board of trustees, five dollars per month each, for services in attending business meetings of the board	8,000 00	8,000 00
Purchase of hack and mules.....	600 00	
Purchase of one 60-horse-power steam boiler	675 00	
Stationery and postage	50 00	50 00

Orphan Asylum.

All of the available fund belonging to the asylum for its support and maintenance.

Salary of superintendent	1,500 00	1,500 00
Salary of matron	500 00	500 00
Salaries of two teachers	900 00	900 00
Salaries of one cook and two assistant cooks	600 00	600 00
Salaries of three laundresses	900 00	900 00
Salaries of two seamstresses	480 00	480 00
Salary of physician	900 00	900 00
Farm labor	500 00	500 00
One trained nurse	360 00	360 00
Salaries of five assistant nurses	1,000 00	1,000 00
Salary of night watchman	360 00	360 00
Maintenance of inmates	10,000 00	10,000 00
Fuel	400 00	400 00
Postage and stationery	100 00	100 00

	Year ending—	
	Feb. 28, 1894,	Feb. 28, 1895.
Bedding	\$500 00	\$500 00
School books, maps, and other school apparatus	100 00	100 00
Tableware, crockery, and hardware	100 00	100 00
Window curtains, towels, and table linen..	100 00	100 00
Transportation	150 00	150 00
Establishment of sewerage and plumbing.	2,500 00	
Erection of a new kitchen, and enlarging dining room	1,500 00	
Erection of a laundry and drying room...	1,500 00	
Erection of a telephone line, connecting asylum with Corsicana	125 00	
Rent of telephone	60 00	60 00
Supervising architect	500 00	

Department of Education.

Out of General Revenue Fund:

Salary of superintendent	2,500 00	2,500 00
Salary of chief clerk	1,800 00	1,800 00
Salary of assistant general clerk	1,200 00	1,200 00
Salary of blank clerk	1,200 00	1,200 00
Salary of statistical clerk	1,500 00	1,500 00
Salary of one assistant general clerk, who can assist in monthly examinations	1,000 00	1,000 00
Salary of stenographic clerk and typewriter	1,200 00	1,200 00
Salary of index clerk, who also attends to monthly apportionment of the school fund	1,200 00	1,200 00
Necessary traveling expenses of the State Superintendent, visiting teachers' and trustees' meetings, organizing institutes.	300 00	300 00
Porter	360 00	360 00
For printing and distributing county superintendents', county judges', and county treasurers' record books, and other blank forms required by school officers and teachers	4,000 00	4,000 00
Printing and distributing school laws, courses of study, circulars of information, and instruction to school officers and teachers	1,350 00	1,350 00
Postage, stationery, necessary office furniture, files, and binding.....	2,000 00	2,000 00
Express, freight, telegraphing, books, periodicals, and incidental expenses.....	1,000 00	1,000 00

Maintaining the public schools for six months in each year, the support of the public free schools for the years ending August 31, 1894 and 1895, all the available public free school fund of said years, less the amount appropriated from the said fund by this act for other purposes.

Sam Houston Normal School.

Out of the General Revenue:

	Year ending—	
	Feb. 28, 1894,	Feb. 28, 1895.
For the support of Sam Houston Normal School	\$25,000 00	\$25,000 00
Library apparatus, repairs, and improvements	3,000 00	3,000 00
Water works for fire protection.....	2,000 00	
For the support of two hundred scholarship students	10,000 00	12,500 00

Provided, that no part of the item of \$10,000 herein set apart shall be available until after the opening of the scholastic session of 1893 and 1894: Provided, further, that the \$22,500 herein appropriated shall be for the support and education of two hundred additional students, who shall be appointed and admitted as are now provided for the appointment and admission of scholarship students.

Prairie View Normal School.

Out of General Revenue:

For maintenance and support of Prairie View Normal School	10,000 00	10,000 00
Maintenance and support of the agricultural and mechanical department of the Prairie View Normal School.....	2,500 00	2,500 00
Girls' industrial department	250 00	250 00
Well, standpipe, and fixtures, to be expended within two years.....	5,000 00	
Dining hall, to be expended within two years	5,000 00	
Blacksmith shop and fixtures, to be expended within two years	500 00	
Fencing, to be expended within two years	700 00	
Building four professors' cottages.....	3,000 00	

Agricultural and Mechanical College.

Out of General Revenue:

For support and maintenance of the Agricultural and Mechanical College, out of general revenue, \$19,500, and out of available University fund, \$500.....	20,000 00	20,000 00
Student's labor fund	5,000 00	5,000 00
Experiment stations, to be expended in two years		5,000 00
To construct and equip an electric light plant, ice factory, and laundry, to be expended in two years.....	10,000 00	
Standpipe and necessary pumps and connections to utilize water in wells, and for bath houses	15,000 00	

Year ending—
Feb. 28, 1894, to Feb. 28, 1895.

In addition to the above the interest on \$209,000 of State bonds held by the A. and M. College fund is hereby further appropriated for the support of this institution: Provided, that the board of directors of the Agricultural and Mechanical College of Texas shall include in their reports the number and salaries of the faculty and employes of the Agricultural and Mechanical College, and of the Prairie View Normal School, and the receipts and expenditures, itemized, of each of these institutions, in the same manner as the law requires the board of regents to report the salaries and number of the faculties and employes, and the receipts and expenditures of the University of Texas.

University of Texas.

For the support and maintenance of the University of Texas, all of the available fund, including under this head the interest of its bonds, the interest from its land notes, the income from its leases, and the fees of its students, to be under the control of the board of regents, less the appropriation herein paid for the Agricultural and Mechanical College, all yearly fees collected from students to be fixed by the regents, and to be not more than fifty dollars per year from each student in the law department, and not more than ten dollars per year from each student in the academic department.

To supplement the available fund in the support and maintenance of the main University, from the general revenue...

Instruments and materials for department of applied mathematics, out of general revenue

\$7,500 00 \$7,500 00

4,000 00

Completing heating apparatus for the main building, and to supply the chemical laboratory with heating apparatus, out of general revenue

7,000 00

The library, out of general revenue, for two years

5,000 00

Medical University.

The board of regents of the University may charge each medical student a tuition fee of

	Year ending—	
	Feb. 28, 1894.	Feb. 28, 1895.
(\$50) fifty dollars for each scholastic year, the proceeds from which shall also be applied to the maintenance and support of said medical branch.		
For support and maintenance, out of general revenue:		
For salaries of professors.....	\$21,800 00	\$21,800 00
Salary of demonstrator of anatomy.....	1,000 00	1,000 00
Salary of demonstrator of physiology.....	1,500 00	1,500 00
Salary of provost	1,200 00	1,200 00
Salary of janitor	1,200 00	1,200 00
Laboratories	2,000 00	2,000 00
Library fund	500 00	500 00
School of pharmacy to be established.....	2,500 00	
Incidental expenses of insurance, fuel, gas, water, stationery, and postage, printing catalogue, repairs, grounds, and other general expenses	2,000 00	2,000 00

Penitentiaries.

The proceeds of all convict labor, and in addition hereto, for making up deficiencies in monthly expenses, and to purchase material to carry on prison industries, which shall be paid out by the Treasurer on the warrant of the Comptroller whenever demanded by the financial agent of the State penitentiaries...		
	60,000 00	
For conveying convicts to penitentiaries and reformatory		
	20,000 00	
Purchase of literature and Bibles for convicts		
	500 00	500 00
Actual traveling expenses of superintendent while in discharge of official duties, to be paid only on vouchers approved by the penitentiary board		
	500 00	500 00

House of Correction and Reformatory.

Salary of superintendent	1,800 00	1,800 00
Salary of farm supervisor.....	500 00	500 00
Salary engineer	720 00	720 00
Salary of assistant engineer.....	360 00	360 00
Salary of four night guards, at \$360 each..	1,440 00	1,440 00
Salary of two teachers at \$360 each.....	720 00	720 00
Ten day guards for first year and twelve for second year at \$300 each.....	3,000 00	3,600 00
Salary of bookkeeper, whose duty it shall also be to look after the stock and barns	600 00	600 00
Salary of physician	400 00	400 00

	Year ending—	
	Feb. 28, 1894.	Feb. 28, 1895
Salary of steward	\$360 00	\$360 00
Salary of chaplain	200 00	200 00
Maintenance fund	15,000 00	18,000 00
Fuel	1,500 00	1,500 00
Books and slates	350 00	350 00
Medicine	150 00	150 00
Postage, stationery, express, telegraphing	150 00	150 00
Discharge, transportation, and clothing for discharged inmates	1,300 00	1,300 00
Library, literature, and Bibles for boys...	200 00	200 00
Contingent fund	500 00	500 00
Blooded cattle	500 00	
Mules	500 00	
Reaper and farm implements.....	500 00	200 00
Iron beds, to be purchased from the insane asylum at Austin	200 00	
Material for constructing school desks and seats	150 00	
Harness	100 00	
Water closets for five dormitories and 450 feet 8-inch pipe	500 00	
Repairing heating apparatus	250 00	
Heater	150 00	
Blacksmith's tools and shop.....	500 00	
Shoemaking outfit	250 00	
Tailor shop supplies	250 00	
Carpenter's tools	150 00	

All sums received into the State treasury from the sale of the products of the House of Correction and Reformatory shall be used in part payment of the above appropriation.

Confederate Home.

For support of inmates, and lights and furniture for the new building and other necessary improvements and extra nurses	32,500 00	32,500 00
Salary of superintendent	1,500 00	1,500 00
Salary of one cook.....	480 00	480 00
Salary of assistant cook.....	240 00	240 00
Salary of one helper (yardman).....	240 00	240 00
Salary of one quartermaster.....	600 00	600 00
Salary of three dining room waiters.....	720 00	720 00
Salary of one laundress.....	360 00	360 00
Salary of one surgeon.....	300 00	300 00
Salary of nurses	480 00	480 00
Incidental expenses	125 00	125 00

This appropriation shall be paid out of the several sources of revenue specified in the act establishing the Confederate Home, approved February 27, 1891, upon a warrant drawn in

Year ending—
Feb. 28, 1894. Feb. 28, 1895.

the manner prescribed in said act, and the amount now in treasury arising from escheated estates, and the amount deposited during the years 1891 and 1892 by the Superintendent of Public Buildings and Grounds from rental of temporary capitol and other State property in the city of Austin, and the amounts deposited in the treasury by the Secretary of State since the first day of September, 1892, shall be transferred to the credit of the Confederate Home fund for the purpose of defraying current expenses of said institution from March 1st, 1893, until sufficient funds shall accumulate from the sources named in the said act establishing said home, to meet current expenses.

Miscellaneous Appropriations.

To pay Mrs. M. A. C. Wilson, widow of Col. W. F. Wilson, a Mier prisoner, and for the payment of which no appropriations have heretofore been made, and which is in lieu of bonds that she did not receive, proof being on file in the Comptroller's Office showing her to be the widow of the said Wm. F. Wilson.....	\$970 00
To purchase eighteen acres of land, more or less, lying between the present property, known as San Jacinto battle field, and Buffalo Bayou, so as to place all of said property in one body and give it a frontage on said bayou	750 00
For placing a tombstone over the grave of General Sam Houston at Huntsville, Texas, to be expended by the mayor of said town	1,000 00
For placing a monument over the grave of General Thomas J. Rusk at Nacogdoches, Texas, to be expended under the supervision of the mayor and board of aldermen of the town of Nacogdoches.....	1,000 00
Redemption of ten per cent premium bonds, now held as cash, by the State Treasurer (def.)	1,239 76
Claim of E. C. Newton in payment for three mules, one wagon, and wagon gear, sold to the State for frontier defense on January 12, 1861.....	525 00
Appropriation for C. H. Florain, of San Antonio, on treasury warrant No. 3213½, for \$46.20 for military services in 1860, plus in-	

	Year ending— Feb. 28, 1894.	Feb. 28, 1895.
terest from July 26, 1861, to January 1, 1876, at 10 per cent per annum.....	\$112	87
Nix and Story, in collecting for the State deficit from defaulting tax collector of Blanco county	123	92
Expenses in taking convict John Martin from Rusk penitentiary to Burnet, to appear in district court, upon order of Judge Blackburn, and returning said prisoner to the penitentiary, due Captain C. Dorbrandt, sheriff of Burnet county use at the penitentiary	75	00
J. K. P. Stokes, claim for making abstract from deed of record of Trinity county, Texas, done by order of Land Commissioner, by instruction of land fraud investigating committee, provided for by laws of the Eighteenth Legislature ...	15	00
Appropriation of John J. Ofiel, district attorney of the thirteenth judicial district, for services in representing the State in the case J. N. Lee v. The Texas Land Mortgage Co. et al., No. 308, and in the case of Gunter & Munson v. Mead and Bomar et al., No. 357, in the district court of Wichita county	150	00
For publishing advertisements for proposals for supplies to be furnished the several asylums, State Reformatory, and Confederate Home, for two years, beginning March 1, 1891, and ending February 28, 1893	1,800	00
Claims of M. A. Koppérl for paper for reports of Courts of Civil Appeals	972	29
Salaries of three judges of Supreme Court, under constitutional amendment, from September 22, 1891, to February 28, 1893	1,931	25
Salary of A. J. Baker, Acting Commissioner of General Land Office, from and including April 20, 1893, until the termination of the impeachment now pending against the Commissioner of General Land Office, the sum of \$200, or so much thereof as may be necessary	200	00
Salary of A. D. Kelley, librarian at Tyler	111	00
For the pay of Chas. S. Morse for work done and money paid for assistance in arranging, classifying, and transferring the records and transcripts of the Tyler and Galveston branches of the Supreme Court to Austin	566	66 $\frac{2}{3}$
For the pay of Thompson Bros. for supplies		

	Year ending— Feb. 28, 1894.	Feb. 28, 1895.
furnished the Court of Criminal Appeals at Dallas	\$521	27
For the pay of Henry Terrell, porter of the Court of Civil Appeals at Fort Worth for five months prior to March 1, 1893..	175	00
Pay of B. H. Shipp for service as bailiff in attending the Court of Civil Appeals at Fort Worth for five months prior to March 1, 1893	125	00
The pay in full of W. L. Huff, clerk, for supplies, stationery, postage, etc., paid for by him for the Court of Civil Appeals at Fort Worth, as follows: Postage, telegrams, freight, express, etc.	290	28
Geo. D. Barnard & Co., for stationery....	467	00
A. D. Aldridge & Co., for stationery....	222	60
Merchant & Manning, for one Remington type writer for court stenographer	95	00
Merchant & Manning, for type writer cabinet for court stenographer	45	00
Merchant & Manning, for type writer supplies for court stenographer	45	00
Payment of balance due parties for furnishing fuel and light to the Court of Civil Appeals at Galveston	108	47
The pay of Texas Printing and Lithographic Company, for furniture, stationery, and other supplies furnished the Court of Civil Appeals at Fort Worth..	4,194	25
The pay of C. A. Dahlich, for articles furnished the Court of Civil Appeals at Austin, and for repairs on court room fixtures	280	00
The pay of Dr. J. J. Tobin, for furniture, stationery, and other supplies furnished the Court of Civil Appeals at Austin	1,597	88
T. C. West, wheeling coal and ashes at boiler house, one month	50	00
J. M. Sweeney, helping in engine room, one month	50	00
J. S. Boles, for running elevator for three months, February, March, and April ..	150	00
National Oil Works, for oil	13	14
J. J. Tobin, paper for water closets for February	45	00
General Electric Company, Chicago, one armature	500	00
Austin Lunatic Asylum.		
Groceries, fuel, light and water	482	38
Dry goods, bedding, and clothing.....	27	65

	Year ending—	
	Feb. 28, 1894.	Feb. 28, 1895.
Repairs, sewerage, etc.	\$698 47	
Pay of A. O. Watson, supervising architect	334 35	
Contingent expenses	39 50	

Southwestern Insane Asylum.

Contingent expenses (registered)	26 00
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Court of Civil Appeals at San Antonio.

Salary of three judges.....	5,250 00	\$10,500 00
Porter	180 00	360 00
Sheriff's attendance	150 00	300 00

Court of Civil Appeals at Dallas.

Salary of three judges	5,250 00	10,500 00
Porter	180 00	360 00
Sheriff's attendance	150 00	300 00

J. J. Tobin—Book stationery furnished General Land Office (deficiency for 1892)	238 35
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Judiciary Department.

Pay of special judges	1,110 00
For sheriffs, clerks, and attorney in felony cases	8,028 10
For county judges, justices of the peace, and constables in examining trials	742 50
For expenses of attached witnesses	2,460 00
For the payment of commissions and fees due district and [county] attorneys or attorneys ad litem on collections of in- terest and forfeitures of lands made since the adjournment of the regular session of the Twenty-second Legislature, said money so collected and lands so forfeited being the property of the free school fund. The account of the district or county attorney, approved and verified by the State Treasurer, shall be sufficient authority for the Comptroller to draw his warrant for the payment of commis- sions, and the account of the district or county attorney or attorney ad litem, approved by the district judge trying the case or his successor in office, shall be sufficient authority for the Comp- troller to issue his warrant for the pay- ment of fees in cases of forfeitures of lands	30,000 00

Provided, that the interest on all securities held by the lunatic asylum, blind, deaf and dumb institutes, and reformatory funds, is hereby appropriated in part payment of the above named institutions, the remainder of the appropriations to be paid out of the general revenue. All moneys now in, or which may hereafter be paid into the treasury for the board and treatment of nonindigent patients and from sale of personal property of the above named asylum or institutions, shall be paid over to the State Treasurer monthly, and credited by him to the general revenue account: And provided further, that all moneys belonging to collectors, cost, tax titles, four and five per cent bond sales, capitol land sales, capitol building fund, settlement of estates, and certificate of public debt accounts, be transferred to the general revenue account.

Sec. 2. The fact that the monthly expenses of the State government are due and it is important that the same shall be promptly paid, creates an emergency and public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and the same is hereby suspended.

Approved May 10, A. D. 1893.

[Note.—Items appearing in original bill, on file in the office of the Secretary of State, but vetoed by the Governor, are omitted.]

DUVAL COUNTY—RESTORING CIVIL AND CRIMINAL JURISDICTION TO COUNTY COURT.

CHAP. 99.—[S. B. No. 297.] An act to restore and confer upon the county court of Duval county the civil and criminal jurisdiction heretofore belonging to said court, under the Constitution and general laws of the State, and to conform the jurisdiction of the district court of said county to such change, and to repeal all laws in conflict with this act.

Section 1. Be it enacted by the Legislature of the State of Texas: That the county court of Duval county shall hereafter have exclusive original jurisdiction in civil cases when the matter in controversy shall exceed in value two hundred dollars, and shall not exceed five hundred dollars, exclusive of interest, and shall have concurrent jurisdiction with the district court of said county when the matter in controversy shall exceed five hundred dollars and not exceed one thousand dollars.

Sec. 2. Said county court shall have appellate jurisdiction in civil cases over which justices' courts have original jurisdiction, when the judgment of the court appealed from or the amount in controversy shall exceed twenty dollars, and said county court shall have power to hear

and determine cases brought up from the justice's court by certiorari under the provisions of the title of the Revised Statutes relating thereto.

Sec. 3. The county judge in said county shall have authority, either in term time or vacation, to grant writs of mandamus, injunctions, sequestration, garnishment, attachment, certiorari, supersedeas, and all other writs necessary to the enforcement of the jurisdiction of said court, and shall also have power to issue writs of habeas corpus in all cases in which the Constitution has not exclusively conferred the power on the district court or judge thereof.

Sec. 4. Said county court shall have jurisdiction in the forfeiture and judgment of all bonds and recognizances taken in criminal cases of which criminal cases said court has original or appellate jurisdiction.

Sec. 5. Said county court shall have exclusive original jurisdiction of all misdemeanors except misdemeanors involving official misconduct, and except cases in which the highest penalty of fine that may be imposed under the law may not exceed two hundred dollars; and shall have original jurisdiction of all misdemeanors except those involving official misconduct, and concurrent jurisdiction with that of justices of the peace in criminal cases, and appellate jurisdiction in criminal cases of which justices of the peace and other inferior tribunals of said county have original jurisdiction.

Sec. 6. The district court of said county of Duval shall no longer have jurisdiction of misdemeanors except misdemeanors involving official misconduct, and shall no longer have jurisdiction of cases of which the county court of said county by the provisions of this act has original or appellate jurisdiction; and it shall be the duty of the district clerk of said county, within thirty days after this act shall take effect, to make full and complete transcripts of orders on the criminal and civil dockets then pending before the district court of said county, of which cases by the provisions of this act original and appellate jurisdiction is given to the said county court, and to deliver said transcripts, together with the original papers, and a certified bill of costs in each case, to the county clerk of said county, and said county clerk shall take charge of said transcripts and papers, file the same, and enter said cases on their respective dockets for trial by said court.

Sec. 7. The said county court shall also have the power to hear and determine all motions against sheriffs and other officers of the court for failure to pay over moneys collected under the process of said court, or other defalcations of duty in connection with such process, and shall have power to punish, by fine not exceeding one hundred dollars, and by imprisonment not exceeding three days, any person guilty of contempt of said court, and all other powers and jurisdiction conferred on county courts by the Constitution and general laws of this State.

Sec. 8. All laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

Sec. 9. The near approach of the close of the session, and the importance of transferring without delay the jurisdiction to the county court, creates an emergency and imperative public necessity that the law requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved May 11, A. D. 1893.

JUDICIAL DISTRICTS—FIFTY-FIRST AND THIRTY-THIRD.

CHAP. 100.—[H. S. for H. B. No. 703.] An act to name the several counties composing the fifty-first and thirty-third judicial districts, and to fix the times for holding the district courts therein; and to attach the unorganized county of Schleicher to the county of Menard, until its organization; and to repeal all laws and parts of laws in conflict herewith.

Section 1. Be it enacted by the Legislature of the State of Texas: The fifty-first judicial district of this State shall be composed of the following counties: Crockett, Sutton, Schleicher (when organized), Irion, Coke, Sterling, and Tom Green, and the terms of the district court shall be holden therein each year as follows:

In the county of Crockett on the first Mondays of September and February, and may continue in session two weeks.

In the county of Sutton on the third Mondays in September and February, and may continue in session two weeks.

In the county of Schleicher, when organized, on the fifth Mondays after the first Mondays in September and February, and may continue in session two weeks.

In the county of Irion on the seventh Mondays after the first Mondays in September and February, and may continue in session two weeks.

In the county of Coke on the ninth Mondays after the first Mondays in September and February, and may continue in session three weeks.

In the county of Sterling on the twelfth Mondays after the first Mondays in September and February, and may continue in session two weeks.

In the county of Tom Green on the fourteenth Mondays after the first Mondays in September and February, and may continue in session until the business of the court is disposed of.

Sec. 2. The thirty-third judicial district shall be composed of the counties of Blanco, Gillespie, Mason, Kimble, Menard, San Saba, and Llano, and the terms of the district court shall be held therein each year as follows:

In the county of Blanco on the first Mondays in February and September, and may continue in session two weeks.

In the county of Gillespie on the third Mondays in February and September, and may continue in session two weeks.

In the county of Mason on the fourth Mondays after the first Mondays in February and September, and may continue in session three weeks.

In the county of Kimble on the seventh Mondays after the first Mondays in February and September, and may continue in session two weeks.

In the county of Menard on the ninth Mondays after the first Mondays in February and September, and may continue in session two weeks. In the county of San Saba on the eleventh Mondays after the first Mondays in February and September, and may continue in session three weeks.

In the county of Llano on the fourteenth Mondays after the first Mondays in February and September, and may continue in session until the business is disposed of.

Sec. 3. That the unorganized county of Schleicher shall be attached to the county of Menard for judicial and surveying purposes.

Sec. 4. The near approach of the close of the present session, and the large amount of business undisposed of, and the further fact that the un-

organized county of Schleicher remains now unattached to any county for judicial and surveying purposes, creates an emergency and public necessity for the suspension of the constitutional rule requiring bills to be read on three several days be and the same is suspended.

Sec. 5. That all laws and parts of laws in conflict with this act be and the same are repealed.

Approved May 11, A. D. 1893.

INQUESTS.

CHAP. 101.—[H. B. No. 266.] An act to amend chapter 1, title 13, of the Code of Criminal Procedure of the State of Texas, relating to inquests, by adding thereto articles 989a and 989b.

Section 1. Be it enacted by the Legislature of the State of Texas: That chapter 1, title 13, of the Code of Criminal Procedure of the State of Texas, relating to inquests, be amended by adding thereto articles 989a and 989b, which shall read as follows:

Article 989a. Whenever an inquest is held to ascertain the cause of a death, the justice of the peace is hereby authorized, if he deems it necessary, to call in the county physician, or if there be no county physician, or if it be impracticable to secure his services, then some regular practicing physician, to make an autopsy in order to determine whether the death was occasioned by violence; and if so, the nature and character of the violence used; and the county in which such inquest and autopsy is held shall pay to the physician making such autopsy a fee of not less than ten nor more than fifty dollars, the excess over ten dollars to be determined by the county commissioners court after ascertaining the amount and nature of the work performed in making such autopsy.

Article 989b. If upon such inquest it becomes necessary to determine whether the death has been produced by poison, it is hereby made the duty of the justice of the peace, upon request of the physician performing such autopsy, to call into his aid, if necessary, some medical expert or chemist qualified to make an analysis of the stomach and its contents, together with such other portions of the body as may be necessary to be analyzed and tested for the purpose of determining the presence of poison in such body; and the county commissioners court of the county shall pay to such medical expert or chemist as a reasonable fee for his services a sum of money not to exceed fifty dollars.

Sec. 2. The near approach of the end of this session of the Legislature, and the necessity of enacting some law to provide for the securing of the physician or medical expert or chemist, and the payment of same, in case of post mortem examinations, creates an emergency, and an imperative public necessity exists requiring the suspension of the constitutional rule requiring bills to be read on three several days, and said rule is so suspended; and this act shall take effect and be in force from and after its passage, and it is so enacted.

Approved May 11, A. D. 1893.

TAXATION—INSURANCE, TELEPHONE, SLEEPING AND DINING CAR, AND OTHER CORPORATIONS.

CHAP. 102.—[H. B. No. 295.] An act to fix the rate of taxation on insurance companies, telephone companies, sleeping and dining car companies, and other corporations; to prescribe the time and manner of collecting such taxes; to provide penalties for the violation of the provisions of this act, and to repeal all laws and parts of laws in conflict therewith.

Section 1. Be it enacted by the Legislature of the State of Texas: That every life, fire, marine, accident, or other insurance company at the time of its filing its annual statement shall report to the Commissioner of Insurance the gross amount of premiums received in this State during the preceding year, and each life insurance company and life and accident insurance company shall pay an annual tax of one and one-fourth per cent on such gross premium receipts; and each fire, marine, health, live stock guarantee, or accident insurance company shall pay an annual tax of one-half of one per cent on such gross premium receipts; and the gross premium receipts are understood to be the premium receipts reported to the Commissioner of Insurance by the insurance companies on sworn statements. Upon receipt by him of statements showing the gross premium receipts by such companies, the Commissioner of Insurance shall certify to the State Treasurer the amount of taxes due by each company, which taxes shall be paid to the State Treasurer for the use of the State on or before the first day of March following, whose receipt shall be evidence of the payment of such taxes; and no insurance company shall receive a permit to do business in this State until such taxes are paid: Provided, that no occupation tax shall be levied on any insurance companies by any county, city, or town, but this act shall not be construed to prohibit the levy of State, county, and municipal taxes upon the real and personal property of such companies.

Sec. 2. There shall hereafter be collected from each telephone company an annual tax of twenty-five cents on each telephone in use by such company in this State: Provided, that no occupation tax shall be levied on any telephone company by any county, city or town, but this act shall not be construed to prohibit the levy of State, county, or municipal taxes upon the real and personal properties of such companies. Every such company shall, on or before the 15th day of January of each year, through its superintendent, or other chief officer or agent, make to the Comptroller of Public Accounts a statement on oath showing the number of telephones in use in this State by such company, and the Comptroller of Public Accounts shall certify to the State Treasurer the amount of taxes due by such company, which taxes shall be paid to the State Treasurer, for the use of the State, the amount of the taxes herein levied, and no telephone company shall do business in this State until said reports are filed and taxes paid. Any telephone company violating any provision of this act shall forfeit to the State, as a penalty, the sum of \$200, to be recovered in any court of competent jurisdiction on the complaint of the Comptroller of Public Accounts.

Sec. 3. That every sleeping car company, palace car company, dining car company, doing business in this State, and every company, corporation, person, or association of persons leasing or renting cars to any rail-

way company in this State, shall, annually, between the first day of January and the first day of March, report to the Comptroller of Public Accounts, under oath of the president, treasurer, or some other officer of said corporation, as follows, viz.:

1. The total authorized capital stock.
2. The number of shares issued.
3. The number of shares authorized.
4. The par value of each share.
5. The number of miles of railroad in this State and other States over which its cars are hauled.

6. The number of miles of railroad in this State over which its cars are hauled, the total amount invested by said company in real estate, manufacturing plants, materials, and properties other than sleeping, palace, and dining cars and their equipments; and shall pay to the State Treasurer, for the use of the State, a tax of twenty-five cents on the one hundred dollars of the capital stock of such company employed in this State; and in computing the amount of such capital stock so employed, the same shall be such proportion of the capital stock of such company, after deducting therefrom the amount shown to be invested in real estate, manufacturing plants, materials and properties, other than such sleeping, palace, or dining cars and their equipments or properties used in connection with the operation of such cars, as the miles over which it runs cars in this State bear to the whole number of miles in this State and other States over which such cars are run; and in the event of the neglect or refusal of the officers of any such corporation to make the report herein required, the Comptroller of Public Accounts and Attorney-General, or either of them, are hereby authorized to make a valuation of the capital stock of such company, and ascertain any other necessary facts from any information in their hands or that they may be able to obtain, and shall calculate the taxes due by such company, and certify to the State Treasurer the amount of taxes due by such company; and each and every such company failing or refusing for more than thirty days after the first day of March to make the report required herein and pay the required taxes shall forfeit to the State twenty-five dollars for each day said report and payment are delayed, which forfeiture, together with the taxes due, shall be sued for by the Attorney-General in the name of the State. For the purpose of suits provided for in this section, venue and jurisdiction are hereby expressly conferred upon the courts of Travis county, and service may be had upon any officer or agent of such company within this State, and such service shall in all respects be held legal and valid, and no occupation taxes shall be levied upon such companies by any county, city or town. Nothing in this section shall be construed to relinquish the claim of the State to taxes now due under provisions of previous acts.

Sec. 4. Whenever any person or association of persons, not being a corporation, nor having capital stock, shall in this State engage in the business mentioned in the third section of this act, then the capital and property, or the certificates, or other evidences of the rights or interests of the holders thereof, in the business, or capital and property employed therein, shall be deemed and treated as the capital stock of such person or association of persons for the purpose of taxation in like manner if such person or association of persons were a corporation; and such person or associa-

tion of persons shall make to the Comptroller of Public Accounts, at the time and in the manner required in section 3 of this act, such report as the Comptroller of Public Accounts may require to carry out the provisions of this act relating to such person or association of persons; and such persons or association of persons shall be subject to all the penalties provided in section 3 of this act, for failure to make the required reports and pay the required taxes.

Sec. 5. That each and every private domestic corporation heretofore chartered or that may be hereafter chartered under the laws of this State, and each and every foreign corporation that has received or may hereafter receive a permit to do business under the laws of this State, in this State, shall pay to the Secretary of State, annually, on or before the first day of May, a franchise tax of ten dollars. Any such corporation which shall fail to pay the tax provided for in this section shall, because of such failure, forfeit their charter.

Sec. 6. The Secretary of State shall, on or before the first day of March of each year, notify all corporations subject to the tax provided in the preceding section, and in thirty days after the first day of May of each year shall publish a list of the charters forfeited for noncompliance with this act: Provided, that any corporation which shall within sixty days after such publication pay the tax and \$5.00 additional thereto shall be relieved from forfeiture of its charter by reason of such failure: Provided further, that this act shall not be construed to repeal any law prescribing fees to be collected by the Secretary of State.

Sec. 7. Corporations organized for the purpose of religious worship, or for holding places of burial, not for private profit, or for school purposes, or for purely public charity, are exempted from the tax imposed by this act.

Sec. 8. All laws or parts of laws in conflict with this act are hereby repealed.

Sec. 9. The near approach of the end of the present session of the Legislature, and the great need of an efficient law on this subject, creates an emergency and imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and this bill be put on its third reading and final passage.

Approved May 11, A. D. 1893.

JUDICIAL DISTRICT—TWENTY-SEVENTH.

CHAP. 103.—[S. B. No. 291.] An act to amend an act entitled "An act to fix the times of holding the district court in the twenty-seventh judicial district of the State of Texas," passed at the regular session of the Twenty-first Legislature, approved February 21, 1889, so as to extend and add one week to the terms of the district court of Mills county.

Section 1. Be it enacted by the Legislature of the State of Texas: That section one of an act entitled "An act to fix the times of holding the district court in the twenty-seventh judicial district of the State of Texas," passed at the regular session of the Twenty-first Legislature, approved February 21, 1889, be so amended as to hereafter read as follows:

Section 1. That the terms of the district court in the twenty-seventh judicial district of the State of Texas shall hereafter be begun and holden as follows, to-wit:

In the county of Mills, on the second Mondays in March and September of each year, and may continue in session three weeks.

In the county of Burnet, on the first Mondays in April and October of each year, and may continue in session four weeks.

In the county of Lampasas, on the first Mondays in May and November of each year, and may continue in session four weeks.

In the county of Bell, on the first Mondays in July and January of each year, and may continue in session until the business is disposed of.

Approved May 11, A. D. 1893.

DETECTIVES—PROHIBITING EMPLOYMENT OF ARMED
FORCES OF DETECTIVES, OR OTHER NONRESIDENT
PERSONS.

CHAP. 104.—[S. B. No. 50.] An act to prevent the employment of any armed force of detectives, or other persons, who are not residents of this State, by any person, firm, or corporation in this State.

Section 1. Be it enacted by the Legislature of the State of Texas: That no person, corporation, or firm shall be permitted to employ any armed force of detectives, or other persons not residents of this State, in the State of Texas.

Sec. 2. Be it further enacted, that any person, firm, or corporation employing such forces contrary to the provisions of this act shall be liable to pay to the State of Texas, as a penalty, not less than twenty-five nor more than one thousand dollars, to be recovered before any court of competent jurisdiction in this State: Provided, that nothing herein shall be construed to deprive any person, firm, or corporation of the right of self-defense, or in defense of the property of said person, firm, or corporation by such lawful means as may be necessary to such defense.

Sec. 3. The fact that no law now exists on the statutes of the State of Texas to prevent the employment and use of armed forces of men under the guise of detectives, whereby the lives and happiness of the people of this State may be placed in jeopardy, therefore an imperative public necessity exists requiring that the rule requiring bills to be read on three several days be and the same is hereby suspended.

Approved May 11, A. D. 1893.

COUNTY FINANCES.

CHAP. 105.—[H. B. No. 237.] An act to amend article 935, title 24, of the Revised Civil Statutes of the State of Texas, providing for the keeping of the finance ledger, and adding thereto articles 935a, 935b, 935c, and 935d, providing that the clerks shall also make a quarterly statement of the receipts, expenditures and indebtedness of the county for each quarter, fixing the fees for the same, and providing a penalty for failing, neglecting, or refusing to perform such duties, and to repeal all laws in conflict herewith.

Section 1. Be it enacted by the Legislature of the State of Texas: That title 24 and article 935 be amended, and by the addition of articles 935a, 935b, 935c, and 935d, so as to hereafter read as follows:

Article 935. It is hereby made the duty of the clerk of the county court to open and keep in said book, which shall be known as a finance ledger, an account with each and every officer of the county, district, or State, who is now or may be hereafter authorized or required by law to receive or collect any money or other property for the use of or belonging to the county. The clerk shall also keep such other accounts as may be necessary to carry out the purposes of this title; that all items shall be entered daily under their respective heads, and said finance ledger shall be at all times subject to the inspection of the public.

Article 935a. It shall be the duty of the said clerk to balance each account so kept, and make a tabular statement, under oath, at each regular term of the commissioners court for the three months next preceding the month when such court meets in regular session, to be presented to said court during the second day of its term, specifying therein the names of the creditors of said county, and the items of indebtedness, with their respective dates of accrual, and also the names of persons to whom moneys have been paid, with the amounts paid each; the names of persons from whom moneys have been received, with the date of receipt, and for what account received, during the quarter for which such statement is prepared; said statement shall also show the amount to the credit or debit of each fund separately.

Sec. 2. It shall be the duty of said clerk immediately after the first regular term of the commissioners court in each year to publish for one time in some weekly newspaper published in his county (or if there be no paper published therein, then by posting four copies of such exhibit, one in each commissioner's precinct, one of which shall be at the court house door, the other three at public places in such precincts), an exhibit showing the aggregate amount received and the aggregate amount paid out of each fund for the four preceding quarters, and the balance to the credit or debit of each fund; also the amount of indebtedness of said county, with their respective dates of accrual, and to whom and for what due; also the amount to the debit or credit of each officer or other person with whom an account is kept. The cost for publishing the same shall be paid by order of the commissioners court out of the general fund of the county.

Article 935b. The clerk shall receive annually as compensation for the labor performed in keeping the finance ledger as provided for in article 935, and making the quarterly statement as provided for in article 935a, the sum of five dollars for each one thousand dollars tax assessed as due the county, to be paid quarterly on order of the commissioners court, out

of the general fund of the county: Provided, the same be not less than one hundred nor more than two hundred and fifty dollars per annum.

Article 935c. If the clerk of the county court of any county in this State shall willfully fail, neglect, or refuse to keep, or cause to be kept, the finance ledger provided for in article 935, or shall willfully fail, neglect, or refuse to make, or cause to be made, the quarterly statement as provided for in article 935a, the clerk so failing, neglecting, or refusing shall be fined in any sum not less than fifty nor more than two hundred dollars: Provided, that such failure, neglect, or refusal for each quarter shall constitute a separate offense.

Article 935d. All laws and parts of laws in conflict with this title are hereby repealed.

Sec. 2. Whereas, the finance ledger provided in this act is not kept at all in many counties of this State, and in others is not properly kept, thereby causing great loss to the many counties in this State, and the near approach of the close of this session, together with the crowded condition of the calendar, creates an imperative public necessity for the suspension of the constitutional rule requiring bills to be read on three several days, and the same is hereby suspended.

Approved May 11, A. D. 1893.

GREGG COUNTY—DIMINISHING CIVIL AND CRIMINAL JURISDICTION OF COUNTY COURT.

CHAP. 106.—[H. B. No. 707.] An act to diminish the civil and criminal jurisdiction of the county court of Gregg county, Texas, and to repeal all laws in conflict herewith.

Section 1. Be it enacted by the Legislature of the State of Texas: That the county court of Gregg county shall have and exercise the general jurisdiction of a probate court; shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards; grant letters testamentary and of administration; settle accounts of executors, administrators, and guardians; transact all business appertaining to the estates of deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the partition, settlement, and distribution of estates of deceased persons; and to apprentice minors, as provided by law; and to issue all writs necessary for the enforcement of its own jurisdiction; to punish contempt under such provisions as are or may be provided by general laws governing county courts throughout the State; but the said county court of Gregg county shall have no other jurisdiction, civil or criminal, whatever.

Sec. 2. That the district court of Gregg county shall have and exercise jurisdiction in all civil and criminal matters and causes over which, by the laws of this State, the county court of said county would have jurisdiction, except as provided in section 1 of this act. All causes other than probate matters and such as are provided by section 1 of this act, be and the same are hereby transferred to the district court of Gregg county, and all writs and processes relating to any civil or criminal matters not

included in the subject matter of jurisdiction prescribed in section 1 of this act, issued by or out of said county court of Gregg county, be and the same are hereby made returnable to the next term of the district court of said county after this act takes effect.

Sec. 3. That the county clerk of Gregg county be and he is hereby required, within thirty days after this act takes effect, to make a full and complete transcript of all entries upon his civil and criminal docket heretofore made in cases which, by section 2 of this act, are required to be transferred to the district court of said county, and deliver the same to the district clerk of said county, together with all the papers to such causes pertaining, and a certified bill of costs in each case; and all such causes shall be immediately docketed by said district clerk, and such civil causes so transferred shall stand on the docket of said court as appearance cases for the next succeeding term; and all criminal cases shall be docketed and disposed of in the same manner as if the same had been originally triable in said district court, and all processes now issued and returnable to said county court shall be returnable to said district court.

Sec. 4. That this act shall not be construed to in any manner affect judgments heretofore rendered by said county court of Gregg county pertaining to matters and causes which by section 2 of this act are transferred to the district court of said county, but the county clerk of said county shall issue all executions and orders of sale as the judgments in such causes require, and such executions and orders of sale and proceedings thereunder shall be as valid and binding to all intents and purposes as though the change had not been made as by section 2 therein contemplated.

Sec. 5. That all laws and parts of laws in conflict herewith be and the same are hereby repealed.

Sec. 6. The near approach of the close of the present session of the Legislature, and the large amount of business before it, rendering it improbable that this bill can be read on three several days, and the great saving of expense to the said county of Gregg by the passage of this bill, creates an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved May 11, A. D. 1893.

INSPECTION OF HIDES AND ANIMALS.

(Amending Chapter 43, Twenty-third Legislature.)

CHAP. 107.—[H. B. No. 613.] An act to amend section 1 of an act entitled "An act to amend section 46, chapter 25, of the Act of 1885, entitled an act to amend chapter 79 of the Act of 1883, entitled an act to amend chapter 48 of the Acts of 1887, an act to amend section 46 of an act to encourage stock-raising and to protect stockraisers," approved April 22, 1879, and amended April 4, 1881, and April 12, 1880, and March 27, 1887, and March 29, 1889, and amended March 23, 1891, April 15, 1891, and March 29, 1893.

Section 1. Be it enacted by the Legislature of the State of Texas: That section 46 of the above entitled act shall hereafter read as follows:

Section 46. The counties of Anderson, Austin, Angelina, Bell, Bowie, Brazos, Bastrop, Bosque, Burleson, Brazoria, Burnet, Caldwell, Camp,

Calhoun, Cass, Chambers, Cherokee, Collin, Colorado, Cooke, Dallas, Delta, Denton, Ellis, Erath, Fannin, Franklin, Falls, Freestone, Gonzales, Eastland, Stephens, Fayette, Fort Bend, Galveston, Goliad, Grayson, Gregg, Grimes, Hardin, Harrison, Hayes, Henderson, Hill, Hood, Hunt, Hopkins, Houston, Jackson, DeWitt, Jasper, Jefferson, Johnson, Kaufman, Lamar, Lee, Leon, Lampasas, McLennan, Madison, Marion, Montgomery, Montague, Morris, Nacogdoches, Newton, Orange, Panola, Parker, Polk, Palo Pinto, Rains, Red River, Robertson, Rockwall, Rusk, Sabine, San Augustine, San Jacinto, Shackleford, Shelby, Smith, Tarrant, Titus, Trinity, Tyler, Upshur, Van Zandt, Walker, Washington, Wharton, Wise, Wood, Jack, Harris, Clay, Young, Wheeler, Lavaca, Nueces, Bee, Refugio, Limestone, San Patricio, Somervell, Matagorda, Waller, Karnes, Victoria, Milam, Live Oak, Williamson, Miller, Liberty, Wichita, Wilbarger, Archer, Hardeman, Childress, Hall, Collingsworth, Donley, Gray, Armstrong, Briscoe, Floyd, Randall, Kendall, Comal, Travis, Navarro, Brown, Coryell, Hamilton, Mills, Duval, Comanche, Wilbarger, Bailey, Deaf Smith, Dallam, Oldham, Hartley, Hockley, Cochran, Foard, and Wichita, are hereby exempt from the operation of this act, and the provisions of the same shall in nowise relate or apply to the aforesaid counties: Provided, that in those counties bordering on the line of the State, except those bordering on Red River, and the Rio Grande, where there is a depot or place for the shipment of cattle, no inspector of hides and animals shall be elected, but one for each of such counties shall be appointed by the Governor, who shall hold office for two years, and until his successor shall be appointed; and said inspector so appointed to take the constitutional oath of office and give the bond now required of inspectors of hides and animals, and such inspector shall receive the same fees now allowed to inspectors of hides and animals, and perform the same duties: Provided, that such cattle shall not be subject to inspection on board of any railroad, unless the same have been placed on board of such train for the purpose of evading the provisions of this act: And provided further, that the counties of Limestone, Fayette, Lavaca, Gonzales, Colorado, Bell, Calhoun, Hays, Caldwell, Blanco, Llano, Kendall, Comal, Houston, Austin, Johnson, Hill, Ellis, Jackson, Victoria, DeWitt, Freestone, Hamilton, Williamson, Milam, Live Oak, Harris, Bosque, Erath, Hood, Somervell, Liberty, Coryell, Lampasas, Mills, Wichita, Wilbarger, Hardeman, Childress, Hall, Collingsworth, Donley, Gray, Armstrong, Briscoe, Floyd, Randall, Kendall, Fannin, Camp, Delta, Franklin, Hopkins, Hunt, and Navarro, shall be exempt from all laws regulating inspection of hides; that all laws and parts of laws in conflict with the provisions of this act are hereby repealed.

Sec. 2. The great necessity for this law creates an imperative public necessity and emergency requiring that the constitutional rule that bills be read on three several days in each house be suspended, and the same is therefore suspended; and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved May 11, A D. 1893.

COUNTY SEATS—REGULATING LOCATION.

CHAP. 108.—[H. B. No. 276.] An act to amend title 22, chapter 5, article 697, of the Revised Civil Statutes of the State of Texas, as amended by the act of the Twentieth Legislature, chapter 76, page 84, section 2, approved April 10, A. D. 1879, relative to the location of county seats.

Section 1. Be it enacted by the Legislature of the State of Texas: That title 22, chapter 5, article 697, of the Revised Civil Statutes of the State of Texas, as amended by the act of the Twentieth Legislature, chapter 76, page 84, section 2, approved April 10, A. D. 1879, be so amended as hereafter to read as follows:

Article 697. When it becomes desirable to remove the county seat of any county, it shall be the duty of the county judge of said county, or in case of his failure or inability to act, then any two of the county commissioners of said county, upon the written application of not less than one hundred freeholders, who are resident citizens of said county thereof, to make an order in writing upon the minutes of said commissioners court, for the holding of an election at the various voting precincts in said county, on a day therein named, which shall not be less than thirty nor more than sixty days from the date of said order, for the purpose of submitting the question to the electors of said county: Provided, that when a county seat has been established for a longer term than ten years, it shall require two hundred freeholders to make said application: Provided further, that when a county seat has been established for a longer term than forty years, it shall require a majority of the resident freeholders of said county to make said application; said majority of freeholders to be ascertained by the county judge, or in case of his failure or inability to act, then by any two of the county commissioners of said county, from the assessment rolls thereof.

Sec. 2. The frequent occurrence of unnecessary and vexatious elections on the location of county seats in this State, causing much bitterness and discontent among the inhabitants thereof, an imperative public necessity and an emergency exists for the suspension of the constitutional rule requiring bills to be read on three several days in each house, and the same is so suspended; and this act shall take effect and be in full force and effect from and after its passage, and it is so enacted.

Approved May 11, A. D. 1893.

COURTS OF CIVIL APPEALS—FIXING COMPENSATION OF CLERKS.

(Amending Chapter 12, Twenty-third Legislature.)

CHAP. 109.—[H. B. No. 711.] An act to amend section 50 of an act entitled "An act to organize the Courts of Civil Appeals, to define their jurisdiction and powers, and to prescribe the mode of procedure therein," as passed by the Twenty-third Legislature, and approved March 2, 1893.

Section 1. Be it enacted by the Legislature of the State of Texas: That an act entitled "An act to amend section 50 of an act entitled an act to organize the Courts of Civil Appeals, to define their jurisdiction and powers, and to prescribe the mode of procedure therein," passed by the

Twenty-third Legislature of the State of Texas, and approved March 2, 1893, be so amended as to hereafter read as follows:

Section 50. The clerks of the Courts of Civil Appeals shall receive as compensation for their services the following fees:

Entering appearances of either party, in person or by attorney, to be charged but once.....	\$0 50
Docketing each cause, to be charged but once.....	50
Filing the record in each cause.....	50
Entering each rule or motion	25
Entering the order of court upon any rule or motion, or entering any interlocutory judgment	50
Administering an oath or affirmation, without a certificate.....	15
Administering an oath or affirmation and giving a certificate thereof with seal.....	25
Entering each continuance.....	20
Entering each final judgment or decree.....	1 00
Each writ issued.....	1 00
Making out and transmitting the mandate and judgment of the court to any inferior court.....	1 50
Making copies of any papers or records in their offices, including certificate and seal, for each 100 words.....	10
Recording the opinions of the judges, for each 100 words.....	15
Taxing the bill of costs in each case.....	50
Filing each brief, or other paper necessary to be filed.....	10
For certificate and seal, where same is necessary.....	50
Recording sheriff's return on execution.....	50
For issuing copies of each notice ordered by court.....	50

Sec. 2. That all laws and parts of laws in conflict with this act be and the same are hereby repealed.

Sec. 3. The clerks of said Courts of Civil Appeals shall be entitled to receive the fees herein-enumerated for all the work done since the organization of said Courts of Civil Appeals.

Sec. 4. Whereas, the clerks of said Courts of Civil Appeals are receiving no compensation for their services, and there is no law in force providing fees for said clerks, an emergency and imperative public necessity exists that the constitutional rule requiring bills to be read on three several days be suspended, and it is so suspended; and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved May 11, A. D. 1893.

JUDICIAL DISTRICT—THIRTY-SECOND.

CHAP. 110.—[H. S. for S. H. B. No. 287.]—An act to reorganize the thirty-second judicial district of Texas, to fix the time for holding the courts in the several counties composing the same, and to repeal all laws and parts of laws in conflict herewith.

Section 1. Be it enacted by the Legislature of the State of Texas: That the thirty-second judicial district shall be composed of the following counties, to-wit: Nolan, Mitchell, Howard, Martin, Midland, Borden, and Ector, and the unorganized counties of Andrews, Gaines, Dawson, Terry, Yoakum, Glasscock, Crane, Upton, Garza and Lynn.

Sec. 2. That the terms of the district courts in the several counties composing the thirty-second judicial district of Texas shall commence and be holden as follows: In the county of Midland on the first Mondays in February and September in each year, and may continue in session two weeks. In the county of Martin on the third Mondays in February and September in each year, and may continue in session two weeks. In the county of Howard on the fourth Mondays after the first Mondays in February and September in each year, and may continue in session two weeks. In the county of Borden on the seventh Mondays after the first Mondays in February and September in each year, and may continue in session two weeks. In the county of Nolan on the ninth Mondays after the first Mondays in February and September in each year, and may continue in session two weeks. In the county of Ector on the thirteenth Mondays after the first Mondays in February and September in each year, and may continue in session two weeks. In the county of Mitchell on the fifteenth Mondays after the first Mondays in February and September in each year, and may continue in session until all business is disposed of. In the county of Glasscock, when organized, on the sixth Mondays after the first Mondays in February and September in each year, and may continue in session one week.

Sec. 3. That all laws and parts of laws in conflict with this act be and the same are hereby repealed.

Sec. 4. That all process issued or served before this act goes into effect, returnable to the district courts in said judicial districts aforesaid, shall be considered returnable to said courts in accordance with the terms as prescribed by this act, and such process is hereby legalized; and all grand and petit juries drawn and selected under existing laws in any county in said judicial district shall be considered lawfully drawn and selected for the next term of the district courts of their respective counties, held after this act takes effect; and such process is hereby legalized and validated.

Sec. 5. That the unorganized counties of Gaines, Terry, Yoakum, and Andrews, are hereby attached to the county of Martin for judicial purposes. That the unorganized counties of Dawson and Glasscock are hereby attached to the county of Howard for judicial purposes. That the unorganized counties of Crane and Upton are hereby attached to the county of Midland for judicial purposes. That the unorganized county of Garza is hereby attached to the county of Borden for judicial purposes.

Sec. 6. The near approach of the close of the session creates an imperative public necessity, and an emergency exists, wherefore the consti-

tutional rule requiring all bills to be read on three several days should be suspended, and that this bill be put on its third reading and final passage; and it is so enacted.

Approved May 11, A. D. 1893.

ATASCOSA COUNTY—DIMINISHING CIVIL AND CRIMINAL JURISDICTION OF COUNTY COURT.

CHAP. 111.—[H. B. No. 663.] An act to diminish the civil and criminal jurisdiction of the county court of Atascosa county, Texas, to conform the jurisdiction of the district court of said county to the provisions of this act, and to repeal all laws in conflict herewith.

Section 1. Be it enacted by the Legislature of the State of Texas: That the county court of Atascosa county shall have and exercise the general jurisdiction of a probate court; shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards, grant letters testamentary and of administration, settle accounts of executors, administrators, and guardians, transact all business appertaining to the estates of deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the partition, settlement, and distribution of estates of deceased persons, and to apprentice minors as provided by law, and issue all writs necessary for the enforcement of its own jurisdiction, to punish contempt under such provisions as are or may be provided by general law governing county courts throughout the State; but the said county court of Atascosa county shall have no other civil or criminal jurisdiction whatever.

Sec. 2. That the district court of Atascosa county shall have and exercise jurisdiction in all civil and criminal matters and causes over which, by the laws of this State, the county court of said county would have jurisdiction, except as provided in section 1 of this act; and all causes other than probate matters, and such as are provided by section 1 of this act, be and the same are hereby transferred to the district court of Atascosa county, and all writs and processes relating to any civil or criminal matters not included in the subject matter of jurisdiction prescribed in section 1 of this act, issued by or out of said county court of Atascosa county, be and the same are hereby made returnable to the next term of the district court of said county after this act takes effect.

Sec. 3. That the county clerk of Atascosa county be and is hereby required, within thirty days after this act takes effect, to make a full and complete transcript of all entries upon his civil and criminal docket heretofore made in causes which, by section 2, are required to be transferred to the district court of said county, and deliver the same to the district court of said county, together with all the papers to such causes pertaining, and a certified bill of costs in each case, and all such causes shall be immediately docketed by said district clerk; and such civil causes so transferred shall stand on the docket of said court as appearance cases for the next succeeding term; and all criminal cases shall be docketed and disposed of in the same manner as if the same had originally been triable in said district court; and all process now issued and returnable to said county court shall be returnable to said district court.

Sec. 4. That this act shall not be construed to in any manner affect judgments heretofore rendered by said county court of Atascosa county pertaining to matters and causes which by section 2 of this act are transferred to the district court of said county, but the county clerk of said county shall issue all executions and orders of sale, and proceeding thereunder shall be as valid and binding to all intents and purposes as though the change had not been made, as by section 2 therein contemplated.

Sec. 5. That all laws and parts of laws in conflict with this act be and the same are hereby repealed.

Sec. 6. The near approach of the close of the session of the Legislature, and the press of business before it, rendering it improbable that this bill can be read on three several days, and the great saving of expense to said county by the passage of this bill, create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved May 11, A. D. 1893.

SPANISH LAND RECORDS—TRANSLATION OF.

CHAP. 112.—[H. B. No. 691.] An act authorizing counties to have their archives and records of instruments of writing, now in the Spanish language, relating to land, translated into the English language, and making the said recorded translations archives of the county clerks' offices.

Section 1. Be it enacted by the Legislature of the State of Texas: That the county commissioners of any county of this State are authorized and empowered to contract with the clerk of the county courts of their respective counties to cause to be translated into the English language, by themselves or their deputies, the archives and records of their offices, or any part thereof, now in the Spanish language, in their official custody, relating to titles to land, and copy said translations in a well bound book or books: Provided, that they shall not contract to pay more than (15) fifteen cents per hundred words for both the translation and recording.

Sec. 2. Be it further enacted, That when said archives and records, now in Spanish, are translated and recorded as hereinbefore provided, that said records in English shall have the same force and effect as if the archives and instruments were originally made and recorded in the English language, and certified copies may be used as evidence and otherwise, for like purposes and with like effect as the originals are [and] certified copies of records of the originals can now be used; and said record books hereinbefore provided for shall be and are hereby made permanent archives and records of the county clerk's office of the counties when so translated and recorded.

Sec. 3. The near approach of the end of the session creates an emergency and necessity that the rule requiring this bill to be read on three several days be suspended, and it is suspended.

Approved May 11, A. D. 1893.

RAILROAD PROFILES—TO BE FILED WITH THE RAILROAD COMMISSION.

CHAP. 113.—[S. B. No. 166.] An act to amend article 4248, chapter 10, of the Revised Civil Statutes, so as to require the filing of the profiles of all railroads that have not heretofore been filed in the General Land Office, in accordance with said article 4248, and the profiles of all new railroads hereafter constructed, in the office of the Railroad Commission, and the transfer of all profiles heretofore filed in said office to the office of the Railroad Commission, and providing a penalty for the enforcement of the provision of this act.

Section 1. Be it enacted by the Legislature of the State of Texas: That each railroad company transacting business in this State that has not heretofore filed a profile of its road in the General Land Office, in accordance with the provision of article 4248, shall file such profile in the office of the Railroad Commission; and each railroad company that shall construct any railroad in this State hereafter shall file in the office of said Commission a profile of the road constructed. The profiles herein required to be filed in the office of the Railroad Commission, of roads already completed, shall be filed within three months after the passage of this act, unless in the judgment of the Railroad Commission the facts warrant the giving of a longer period of time, in which event said Commission shall have power to extend the time at their discretion, not to exceed twelve months after the passage of this act.

Sec. 2. The Commissioner of the General Land Office shall, upon the taking effect of this act, file in the office of the Railroad Commission the original of all profiles of railroads heretofore filed in said office under article 4248 of the Revised Civil Statutes.

Sec. 3. Any railroad company failing or refusing to comply with the provisions of this act shall forfeit to the State of Texas any sum not less than \$500 nor more than \$1000, to be recovered in any court of competent jurisdiction in any county through which such railway company may pass; and each day such railroad company fails or refuses to comply with the provisions of this act shall be considered a separate offense.

Sec. 4. The fact that there is now no law requiring railroads to file profiles of roads with the Railroad Commission, and the importance of such records to said Commission in the discharge of the duties required of it, creates an emergency requiring the suspension of the constitutional rule requiring bills to be read on three several days.

Approved May 11, A. D. 1893.

EASTLAND COUNTY—TAXATION—RELIEF FROM.

CHAP. 114.—[H. B. No. 709.] An act to release certain inhabitants of Eastland county from the payment of State taxes for the year 1893, in consequence of great public calamity.

Whereas, on the night of the 28th day of April, 1893, a terrific storm and cyclone swept over the county of Eastland and destroyed the city of Cisco, and caused great loss of life and much damage to property, both in the city and country surrounding; and whereas, the great loss of life

and destruction of property in said county have produced a great public calamity by rendering homeless many of its inhabitants; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas: That all citizens of Eastland county who were in any way injured, either in their persons or the person of any member of their families, or in their property, by the said storm, are hereby released from all State ad valorem tax for the year 1893, and the tax collector of the said county is forbidden to collect the same.

Sec. 2. But before any person shall be entitled to the benefit of this act, he shall go before the county clerk of said county and make affidavit that he was injured by the said storm in his person or the person of some member of his family, or his property. This affidavit he shall deliver to the tax collector of the county, who shall receive the same in full of all taxes due to the State from the person making such affidavit for the year 1893. The tax collector shall forward all affidavits so received to the Comptroller of the State, with his final report, and the Comptroller shall credit the tax collector with the amount of taxes due to the State from the persons named in such affidavits.

Sec. 3. The near approach of the end of the session and the crowded condition of the calendar creates a necessity that the rule requiring bills to be read on three several days be suspended, and it is so suspended.

Approved May 11, A. D. 1893.

DISTRICT COURTS—FEES OF CLERKS.

CHAP. 115.—[S. B. No. 218.] An act to amend article 2389, chapter 3, title 42, of the Revised Civil Statutes of the State of Texas, relating to the fees of certain officers.

Section 1. Be it enacted by the Legislature of the State of Texas: That article 2389, chapter 3, title 42, of the Revised Civil Statutes, be and the same is hereby amended so as to hereafter read as follows:

Article 2389. Clerks of the district courts shall receive the following fees:

For copy of petition, including certificate and seal, each 100 words,	\$0 20
Each writ of citation.....	75
Each copy of writ of citation.....	75
Docketing each cause, to be charged but once.....	20
Docketing each rule or motion.....	15
Filing each paper.....	15
Entering appearance of each party to a suit, to be charged but once	15
Each continuance	20
Swearing each witness.....	10
Administering an oath, or affirmation, with certificate and seal..	50
Each subpoena issued.....	25
Each additional name inserted in each subpoena.....	15
Approving bond, except bond for costs.....	1 50
Swearing and impanelling a jury.....	35
Receiving and recording verdict of a jury.....	35
Assessing damages in each case not tried by a jury.....	50

Each commission to take depositions.....	\$0 75
Taking depositions, each one hundred words.....	15
Each order, judgment, or decree.....	75
Where the judgment or decree exceeds two hundred words the additional fee for each one hundred words in excess of two hundred words shall be	15
Each execution, order of sale, writ of possession, restitution, or other writ not otherwise provided for.....	75
Recording return of any writ when such return is required by law to be recorded.....	75
Each certificate to any fact contained in the records of his office	75
Making out and transmitting the records and proceedings in a cause to an inferior court, for each one hundred words.....	20
Making out and transmitting the mandate or judgment of the district court upon appeal from the county court.....	1 00
Filing a record in a cause appealed to the district court.....	50
Transcribing, comparing and verifying record books of his office, payable out of the county treasury, upon warrants issued under order of the commissioners court, each one hundred words....	10
Making transcript of the records and papers in any cause upon appeal, or writ of error, with certificate and seal, each one hundred words	20
Making a copy of all records of judgments, or papers, on file in his office for any party applying for same, with certificate and seal, each one hundred words.....	20
Issuing a writ of scire facias and making copy of same.....	1 00
Taxing the bill of costs in each cause, with a copy of same.....	25
Issuing each license to an attorney, and recording the proceedings thereon	5 00
Filing and recording the declaration of intention to become a citizen of the United States.....	2 00
Issuing certificate of naturalization.....	2 50

Approved May 11, A. D. 1893.

COURTS OF CIVIL APPEALS.

CHAP. 116.—[C. S. for S. S. B. Nos. 29, 36, 82, 126, 128.] An act to divide the State of Texas into five supreme judicial districts; to provide for and establish a Court of Civil Appeals in each of said districts; to prescribe the time for holding of said courts, and to repeal all laws in conflict with the provisions of this act.

Section 1. Be it enacted by the Legislature of the State of Texas: That the State of Texas be and the same is hereby divided into five supreme judicial districts for the purpose of constituting and organizing Courts of Civil Appeals therein respectively.

Sec. 2. That one of the Courts of Civil Appeals shall be held in the first supreme judicial district, in the city of Galveston, in the county of Galveston.

Sec. 3. That one of the Courts of Civil Appeals shall be held in the

second supreme judicial district, in the city of Fort Worth, in the county of Tarrant.

Sec. 4. That one of the Courts of Civil Appeals shall be held in the third supreme judicial district, in the city of Austin, in the county of Travis.

Sec. 5. That one of the Courts of Civil Appeals shall be held in the fourth supreme judicial district, in the city of San Antonio, in the county of Bexar.

Sec. 6. That one of the Courts of Civil Appeals shall be held in the fifth supreme judicial district, in the city of Dallas, in the county of Dallas.

Sec. 7. The following counties shall compose the first supreme judicial district: Newton, Jasper, Orange, Jefferson, Hardin, Tyler, Polk, Trinity, Houston, Madison, Walker, San Jacinto, Liberty, Chambers, Harris, Montgomery, Grimes, Washington, Waller, Fort Bend, Brazoria, Matagorda, Wharton, Colorado, Austin, Fayette, Lavaca, Jackson, Calhoun, Victoria, De Witt, Goliad, Refugio, San Patricio, Aransas, Nueces, Hidalgo, Cameron, Sabine, San Augustine, Nacogdoches, Angelina, Anderson, Freestone, Limestone, Robertson, Brazos, Leon, Burleson, Galveston, Starr, Shelby, Cherokee, Rusk, and Panola.

Sec. 8. The following counties shall compose the second supreme judicial district: Dallam, Sherman, Hansford, Ochiltree, Lipscomb, Hartley, Moore, Hutchinson, Roberts, Hemphill, Oldham, Potter, Carson, Gray, Wheeler, Deaf Smith, Randall, Armstrong, Donley, Collingsworth, Parmer, Castro, Swisher, Briscoe, Hall, Childress, Bailey, Lamb, Hale, Floyd, Motley, Cottle, Foard, Hardeman, Wilbarger, Wichita, Cooke, Montague, Clay, Archer, Baylor, Knox, King, Dickens, Crosby, Lubbock, Hockley, Cochran, Yoakum, Terry, Linn, Garza, Kent, Stonewall, Haskell, Throckmorton, Young, Jack, Wise, Denton, Tarrant, Parker, Palo Pinto, Stephens, Shackelford, Jones, Fisher, Scurry, Borden, Dawson, Gaines, Andrews, Martin, Howard, Mitchell, Nolan, Taylor, Callahan, Bosque, Eastland, Erath, Hood, Somervell, and Comanche.

Sec. 9. The following counties shall compose the third supreme judicial district: Ector, Midland, Glasscock, Sterling, Coke, Runnels, Coleman, Brown, Mills, Hamilton, Coryell, Bell, Lampasas, San Saba, McCulloch, Concho, Tom Green, Irion, Llano, Burnet, Williamson, Milam, Lee, Bastrop, Travis, Blanco, Hays, Comal, Caldwell, McLennan and Falls.

Sec. 10. The following counties shall compose the fourth supreme judicial district: El Paso, Loving, Winkler, Reeves, Jeff Davis, Presidio, Brewster, Buehel, Pecos, Ward, Crane, Upton, Crockett, Val Verde, Schleicher, Sutton, Edwards, Kinney, Maverick, Menard, Kimble, Kerr, Bandera, Uvalde, Zavala, Dimmit, Webb, Encinal, La Salle, Frio, Medina, Duval, McMullen, Atascosa, Bexar, Kendall, Gillespie, Mason, Guadalupe, Wilson, Live Oak, Zapata, Bee, Gonzales, and Karnes.

Sec. 11. The following counties shall compose the fifth supreme judicial district: Grayson, Collin, Dallas, Rockwall, Ellis, Navarro, Kaufman, Henderson, Van Zandt, Rains, Hunt, Fannin, Lamar, Hopkins, Delta, Wood, Smith, Red River, Titus, Franklin, Camp, Upshur, Gregg, Harrison, Marion, Cass, Morris, Bowie, Johnson, and Hill.

Sec. 12. The terms of said courts shall commence on the first Monday in September of each year, and may continue in session until the first Monday in July of each succeeding year.

Sec. 13. When the number of cases on the docket of any court of Civil Appeals shall have accumulated to any extent greater than can be disposed of in a reasonable time, the Supreme Court shall, upon the application of the chief justice of the court where the accumulation exists, counsel for appellant and appellee consenting thereto, have power to order a sufficient number of such cases transferred to any one or more of the other Courts of Civil Appeals whose dockets are not so crowded.

Sec. 14. The Courts of Civil Appeals as now organized shall, upon the organization of the new courts herein provided for, transfer to each of said courts respectively all cases appealed from counties within the respective districts of said new courts, in the same manner and way in which cases were transferred to said courts from the Supreme Court under the provisions of section 4 of the act of April 13, 1892.

Sec. 15. The present judges of the Courts of Civil Appeals, as now constituted, shall continue in office in the districts in which they now preside until the expiration of their respective terms.

Sec. 16. The first term of the Court of Civil Appeals in the said fourth and fifth supreme judicial districts shall be held as soon after this act goes into effect as practicable for the said courts to organize.

Sec. 17. That immediately after this act shall take effect the Governor shall appoint suitable persons as chief justices and associate justices of the Courts of Civil Appeals in and for each of the supreme judicial districts herein created, who shall hold their respective offices until the next general election held for State and county officers, and until their successors shall be elected and qualified.

Sec. 18. That all laws and parts of laws in conflict with the provisions of this act be and are hereby repealed.

Sec. 19. That the near approach of the close of the present session of the Legislature, and the fact that the present Courts of Civil Appeals are unable to dispose of the cases on their dockets in a reasonable length of time, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved May 13, A. D. 1893.

ROBERTSON COUNTY—THIRD SUPREME JUDICIAL DISTRICT.

CHAP. 117.—[H. B. No. 714.] An act to take the county of Robertson out of the first supreme judicial district and place the same in the third supreme judicial district, and to include the county of Greer in the second supreme judicial district.

Section 1. Be it enacted by the Legislature of the State of Texas: That the county of Robertson be and it is hereby removed from the first supreme judicial district, and placed in the third supreme judicial district, and appeals and writs of error from the district and county courts of said county shall be returnable to and heard by the Court of Civil Appeals at Austin; and the county of Greer is hereby included in the second supreme judicial district, and appeals and writs of error from the

district and county courts of said county shall be returnable to and heard by the Court of Civil Appeals at Fort Worth.

Sec. 2. The fact that the present session of the Legislature is speedily drawing to a close and that an act passed by the present session of the Legislature placed the county of Robertson in a supreme judicial district at a distance entirely too remote for the convenience of litigants, creates an emergency requiring that the constitutional rule requiring bills to be read on three several days be, and the same is hereby, suspended.

Approved May 16, A. D. 1893.

SUPREME JUDICIAL DISTRICTS—TRANSFERRING VARIOUS COUNTIES.

CHAP. 118.—[S. B. No. 300.] An act to take the counties of Limestone and Freestone out of the first supreme judicial district and place them in the fifth supreme judicial district, and to take the counties of Ector, Midland and Glasscock out of the third supreme judicial district and place them in the second supreme judicial district, and to take the counties of Reeves, Loving, Winkler, Ward, Crane, and Upton out of the fourth supreme judicial district and place them in the second supreme judicial district.

Section 1. Be it enacted by the Legislature of the State of Texas: That the counties of Limestone and Freestone be and they are hereby removed from the first supreme judicial district and placed in the fifth supreme judicial district, and appeals and writs of error from the district and county courts of said counties shall be returnable to and heard by the Court of Civil Appeals at Dallas.

Sec. 2. That the counties of Ector, Midland, and Glasscock be and they are hereby removed from the third supreme judicial district and placed in the second supreme judicial district, and appeals and writs of error from the district and county courts in said counties shall be returnable to and heard by the Court of Civil Appeals at Fort Worth.

Sec. 3. That the counties of Reeves, Loving, Winkler, Ward, Crane, and Upton be and they are hereby removed from the fourth supreme judicial district and placed in the second supreme judicial district, and appeals and writs of error from the district and county courts in said counties shall be returnable to and heard by the Court of Civil Appeals at Fort Worth.

Sec. 4. The fact that the present session of the Legislature is speedily drawing to a close, and that an act passed by the present session of this Legislature places the counties herein named in supreme judicial districts at a distance entirely too remote for the convenience of litigants, creates an emergency requiring that the constitutional rule requiring bills to be read on three several days be and the same is hereby suspended.

Approved May 16, A. D. 1893.

TOWNS AND VILLAGES—VALIDATING INCORPORATION OF.

CHAP. 119.—[H. B. No. 360.] An act to amend an act of the regular session of the Twenty-second Legislature, entitled "An act to amend article 541a of the Revised Civil Statutes of the State of Texas, and to validate incorporations of towns and villages for free school purposes, heretofore made under certain conditions," approved April 10, 1891.

Section 1. Be it enacted by the Legislature of the State of Texas: That an act of the regular session of the Twenty-second Legislature, approved April 10, 1891, entitled, "An act to amend article 541a of the Revised Civil Statutes of the State of Texas, and to validate incorporations of towns and villages heretofore made under certain conditions," be so amended as to hereafter read as follows:

Article 541a. Towns and villages authorized to incorporate under this chapter, or having two hundred inhabitants or over, not desiring to incorporate for municipal purposes, may incorporate for free school purposes only: Provided, that the territory incorporated shall not exceed an area of sixteen square miles; and when so desiring, an election may be held under the provisions of this title and chapter, and if, at said election, a majority of the votes cast be in favor of the corporation, it shall be the duty of the county judge to make return thereof, and cause a record of the result of such election to be made, the same as provided by articles 512 and 513 of this chapter; upon which entry being made, such town or village shall be regarded as duly incorporated for the purpose of establishing and maintaining a free school therein, and shall, upon notice to the State board of education by the board of trustees hereinafter provided for, receive such pro rata share of the available school fund as its scholastic population may entitle it to; and it is further enacted, that all towns and villages heretofore incorporated under the provisions of said article as it heretofore existed, but which incorporation is invalid by reason of having incorporated more territory than a radius of two miles from the center of said town or village, or by reason of having incorporated pastoral or agricultural lands adjacent to such town or village, are hereby declared valid, and all acts of any such incorporated town or village are to be held binding and full force and effect given thereto: Provided, that all towns and villages heretofore incorporated under and by the virtue of the provisions of this chapter, which embrace a radius of three miles from the center of such town or village, but are invalid by reason of having incorporated pastoral or agricultural lands adjacent to such town or village, are hereby declared valid, and all acts of any such incorporated town or village are to be held binding, and full force and effect given thereto: And provided further, that no such town or village shall hereafter incorporate a greater area than sixteen square miles.

Sec. 2. There being many towns and villages in this State that desire to incorporate for free school purposes, and it being important that such incorporation should be duly organized and ready for taking charge of the schools before the next scholastic year; and there being a great many towns and villages in this State that have incorporated more territory than was permitted by pre-existing laws, and which incorporations are invalid by reason of such fact, which creates an emergency and an imperative public necessity for the suspension of the constitutional rule requiring

bills to be read on three several days, therefore said rule is hereby suspended; and this act shall take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 8th day of May, A. D. 1893, but was not signed by him nor returned to the house in which it originated, with his objections thereto, within the time prescribed by the Constitution, and thereupon became a law without his signature. J. R. Curl, Acting Secretary of State.]

CITIES AND TOWNS—INCORPORATION OF.

CHAP. 120.—[H. B. 318.] An act to define the territory and provide for establishing the boundaries of cities and towns in this State, and to validate the incorporation of any city or town heretofore incorporated in this State in certain cases.

Section 1. Be it enacted by the Legislature of the State of Texas: That no city or town in this State shall be hereafter incorporated under the provisions of the general charter for cities and towns contained in title 17 of the Revised Civil Statutes of this State, with a superficial area of more than two square miles when such town or city has less than two thousand inhabitants, nor more than four square miles when such city or town has more than two thousand inhabitants and less than five thousand inhabitants; nor more than nine square miles when such city or town has more than five and less than ten thousand inhabitants. It shall be the duty of the mayor and board of aldermen, immediately after they qualify as such officers, to pass an ordinance, cause an actual survey of the boundaries of such town to be made, according to the boundaries designated in the petition for incorporation, and the field notes thereof recorded in the minute books of such town or city, and also in the record books of deeds in the county in which such town or city is situated.

Sec. 2. It shall be the duty of the mayor and board of aldermen of any town or city in this State, heretofore incorporated under the above named title 17 of the Revised Civil Statutes of this State, and whose boundaries have been established so as to include more territory than is specified in section 1 of this act, to immediately cause a resurvey of the boundaries of such city or town to be made, so as not to include more territory than is provided for in section 1, such resurvey to be made and the field notes thereof to be recorded as provided in section 1 of this act.

Sec. 3. All cities and towns in this State, whose charter may be void by reason of a failure to properly define their limits, or that may have included in such limits more territory than is provided for in section 1 of this act, that shall, within ninety days from the taking effect of this act, comply with section 2 of this act, be and such charter or incorporation are hereby in all things validated, the same as if such territorial limits had at first been properly established.

Sec. 4. The fact that many towns and cities in this State have illegally included rural lands in their boundaries, which may invalidate their charters, creates an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended; and the ne-

cessity for a law properly defining and validating the boundaries of towns and cities in this State creates an emergency that this act take effect from and after its passage, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 8th day of May, A. D. 1893, but was not signed by him, nor returned to the house in which it originated, with his objections thereto, within the time prescribed by the Constitution, and thereupon became a law without his signature. J. R. Curl, Acting Secretary of State.]

LIQUORS—SALE OF REGULATED—TAXATION.

CHAP. 121.—[H. B. No. 91.] An act to regulate the sale of spirituous, vinous, or malt liquors, or medicated bitters; to fix a tax upon all persons or associations of persons selling such liquors; to define the time and manner of collecting such tax; to fix penalties for the violation of this act, and to repeal all laws and parts of laws in conflict with the provisions of this act.

Section 1. Be it enacted by the Legislature of the State of Texas: That hereafter there shall be collected from every person, firm, or association of persons selling spirituous, vinous, or malt liquors, or medicated bitters, within this State, an annual tax on each separate establishment as follows: For selling spirituous, vinous, or malt liquors in quantities of one gallon or less than one gallon, three hundred dollars; for selling such liquors in quantities of one gallon or more than one gallon, three hundred dollars: Provided, that in selling one gallon, the same may be made up of different liquors in unbroken packages, aggregating not less than one gallon. For selling malt liquors exclusively, fifty dollars: Provided, that nothing in this section shall be so construed as to exempt druggists who sell spirituous, vinous, or malt liquors, or medicated bitters, on the prescription of a physician, or otherwise, from the payment of the tax herein imposed: Provided further, that this section shall not apply to the sale by druggists of tinctures and drug compounds in the preparation of which spirituous, vinous, or malt liquors are used, and which compounds are not intoxicating beverages prepared in evasion of the provisions of this act.

Sec. 2. That the commissioners court of the several counties in this State shall have the power to levy and collect from every person or association of persons selling spirituous, vinous, or malt liquors, or medicated bitters, a tax equal to one-half the State tax herein levied; and where any such sale is made in any incorporated city or town, such city or town shall have the power to levy and collect a tax upon such sale equal to that levied by the commissioners court of the county in which such city or town is situated.

Sec. 3. That every person, firm, or association of persons desiring to engage in the sale of spirituous, vinous, or malt liquors, or medicated bitters, shall, before he or they commence the sale of such liquors or medicated bitters, file with the county clerk of the county in which he or they propose to sell such spirituous, vinous, or malt liquors, or medicated bitters, an application for license to engage in the sale of such liquors or

medicated bitters. Said application shall be made on oath, on forms to be provided by the Comptroller, and shall designate the place at which it is proposed to carry on the sale of such liquors or medicated bitters; if in a city, the street and number of the house shall be given, and the quantities in which he or they propose to sell, whether one gallon or more than one gallon, or one gallon and less than one gallon, or whether they desire to sell malt liquors exclusively; and shall also state in said application whether or not the said liquors are to be sold to be drunk on the premises; and shall pay to the collector of taxes of the county in which he or they propose to sell such spirituous, vinous, or malt liquors, or medicated bitters, the entire annual tax herein levied, according to the quantities in which he or they propose to sell, and the entire annual tax upon such business, as may be levied by the commissioners court of such county, and file with the county clerk bond as required in section nine of this act. In case the selling of such liquors or medicated bitters be carried on in a city or incorporated town, he or they so selling shall, in addition to the State and county tax herein required to be paid, pay to collector of taxes in such city or town such tax as may be levied on said business by such city or town, and all taxes herein levied shall be paid in advance. All licenses issued under the provisions of this act shall be posted by the licensee in a conspicuous place in his or their place of business, and on failure to so post such license, he or they so failing shall be considered as having no license.

Sec. 4. That upon filing the sworn application as provided in section 3, and paying to the collector the annual State and county tax herein provided for, and filing such bond as is required by section 9, the county clerk of said county shall issue to said applicant a license to sell spirituous, vinous, or malt liquors, or medicated bitters, at the place and in the manner and quantities set forth in the application, and no sale shall be made until such license is procured. The receipt of the tax collector shall be evidence of the payment of the tax. For issuing licenses herein provided for, county clerks shall be entitled to charge a fee of twenty-five cents for each license.

Sec. 5. That no license shall be granted for a longer or a shorter period than one year. The particular place and house in which the liquors are to be sold shall be designated in the license, and no license shall authorize any person to sell spirituous, vinous, or malt liquors, or medicated bitters, at any other place or house than that designated in the license: Provided, that if any person or association of persons having a license to sell such liquors, desires to change his or their place of business, such change may be made by presenting the license to the clerk of the county and having the new place of business inserted therein, but in no case to admit of the temporary closing of one place of business to sell at another place.

Sec. 6. That any person or association of persons who shall engage in the sale of spirituous, vinous or malt liquors, or medicated bitters, without having obtained license therefor, shall be fined in any sum not less than the amount of the taxes so due and not more than double that sum, or imprisoned in the county jail from ten to ninety days, in the discretion of the jury. And any person or persons who shall sell spirituous, vinous, or malt liquors, or medicated bitters, in quantities not authorized by his or their license, or who shall sell in any other place than that desig-

nated in the license, or who shall sell otherwise than authorized by the license, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in any sum from fifty to one hundred dollars, or imprisoned in the county jail from ten to thirty days, in the discretion of the jury: Provided, that each day any person, firm, or association of persons, in his or their employ, shall engage in the sale of spirituous, vinous, or malt liquors, or medicated bitters, in violation of this act shall constitute a separate offense.

Sec. 7. That the payment of the United States special tax as a seller of spirituous, vinous, or malt liquors shall be held to be prima facie evidence that the person or persons paying such tax are engaged in selling such liquors.

Sec. 8. That the county clerk in each and every county in this State shall, between the first and tenth day in each month, forward to the State revenue agent a sworn statement, giving the names of all persons who have filed applications for license during the preceding month, and the tax collector of each county shall keep a register in which shall be entered the names of all persons paying taxes under this act, with the date of payment, and shall, between the first and tenth day of each month, make to the State revenue agent a sworn report, giving the names of all persons who have paid a liquor tax during the preceding month, and the character of tax paid by each. The reports provided for in this section shall be made upon blank forms to be furnished by the Comptroller.

Sec. 9. That any person, firm, or association of persons desiring to engage in the sale of spirituous, vinous, or malt liquors, or medicated bitters capable of producing intoxication, to be drunk on the premises, shall, before engaging in such sale, be required to enter into bond in the sum of five thousand dollars: Provided, however, that any person, firm or corporation of persons dealing exclusively in malt liquors shall be required to give bond only in the sum of one thousand dollars, with at least two good, lawful, and sufficient sureties, payable to the State of Texas, to be approved by the county judge, conditioned that said person, firm or association of persons so selling spirituous, vinous, or malt liquors, or medicated bitters capable of producing intoxication, in any quantity, to be drunk on the premises, shall keep an open, quiet, and orderly house or place for the sale of spirituous, vinous, or malt liquors, or medicated bitters capable of producing intoxication; and that such person, firm, or association of persons, or his or their agent or employe, will not sell nor permit to be sold in his or their house or place of business, nor give nor permit to be given, any spirituous, vinous, or malt liquors, or medicated bitters capable of producing intoxication, to any person under the age of twenty-one years, or to a student of any institution of learning, or to any habitual drunkard, or to any person after having been notified in writing, through the sheriff or other peace officer, by the wife, mother, daughter, or sister of the person, not to sell to such person; and that he or they will not permit any person under the age of twenty-one years to enter and remain in such house or place of business; and that he or they will not permit any games prohibited by the laws of this State to be played, dealt, or exhibited in or about such house or place of business; and that he or they will not rent or let any part of the house or place in which he or they have undertaken to sell spirituous, vinous, or malt liquors, or medicated bitters capable of producing intoxication, in any quantity, to

be drunk on the premises, to any person or persons for the purpose of running or conducting any game or games prohibited by the laws of this State; and that he or they will not adulterate the liquors sold by them in any manner, by mixing with the same any drug; and that he or they will not knowingly sell or give away any impure or adulterated liquors of any kind; which said bond shall be filed in the office of the county clerk of the county where the business is conducted, and shall be recorded by such clerk in a book to be kept for such purpose, for which service the said clerk shall be entitled to a fee of seventy-five cents; which said bond may be sued on at the instance of any person or persons aggrieved by the violation of its provisions, and such person shall be entitled to recover the sum of five hundred dollars as liquidated damages for each infraction of the condition of such bond, and the said bond shall not be void on the first recovery, but may be sued on until the full penal sum named therein shall have been recovered. In addition to civil proceedings for individual injuries, brought on said bonds as above indicated, if any person, firm, or association of persons shall violate any of the conditions of the bond herein required, it shall be the duty of the county and district attorneys, or either of them, to institute suit thereupon in the name of the State of Texas, for the use and benefit of the county, and the amount of five hundred dollars as a penalty shall be recovered from the principals and sureties upon a breach of any of the conditions thereof; and whenever the first or subsequent bond as required is exhausted by suit at the instance of individuals, or for the use of the county, a new similar bond shall be given and approved before the dealer shall have the right to further pursue the business of a liquor seller; or, in case suit is pending on any such bond, and the county or district attorney shall make and file an affidavit with the clerk of the county court that he believes the bond of the defendant will be exhausted by said suit, the clerk shall at once notify the liquor dealer thereof, and it shall be the duty of the liquor dealer, within twenty days from the time the bond is exhausted, or, in other event, within twenty days from the time the notice is given, to give a new bond similar to the bond first given, to be approved in the same way; and until such new bond is given and approved, when it is required by this act, the liquor seller shall not have the right to further pursue the business of selling liquors; and any person, firm, or association of persons who shall sell liquors, in any quantity, to be drunk on the premises, without giving the first bond, or the new bond, as required by this act, shall be deemed guilty of a misdemeanor, and on conviction shall be fined the same amount provided for in cases where no license has been obtained. An open house, in the meaning of this act, is one in which no screen or other device is used or placed either inside or outside of such house or place of business for the purpose of or that will obstruct the view through the open door or place of entrance into any such house or place where intoxicating liquors are sold to be drunk on the premises. A quiet house or place of business, in the meaning of this act, is one in which no music, loud or boisterous talking, yelling, or indecent or vulgar language is allowed, used, or practiced, or any other noise calculated to disturb or annoy any persons residing or doing business in the vicinity of such house or place of business, or those passing along the streets or public highways. By an orderly house is meant one in which no prostitute or lewd woman or women are allowed to enter or remain: And it is further provided, that

said house must not contain any vulgar or obscene pictures. Any surety on such bond may relieve himself from further liability thereon by giving the principal in said bond notice in writing that he will no longer remain as surety on said bond and by filing with the county judge an affidavit that such notice has been given, and if within five days after such notice if he fail to make a new bond, he shall cease to pursue said business until a new bond is given. And any person who shall continue to pursue said business after such affidavit is filed shall be guilty of a misdemeanor, and shall be punished as provided in cases where no license has been procured: Provided, that where the sale is made in good faith, with the belief that the minor was of age, and there is good ground for such belief, that shall be a valid defense to any recovery on such bond.

Sec. 10. That any tax collector, sheriff, deputy sheriff, constable, or other peace officer, having knowledge of the violation of this act, shall report the same to the county attorney, who shall forthwith prosecute any person or persons violating the provisions of this act; and any tax collector whose attention has been called to an instance in which the provisions of this act appear to have been violated, shall investigate the particular case, and if it is found this act has been violated, report the fact to the county attorney or district attorney.

Sec. 11. That any officer who shall willfully refuse or neglect to perform the duties required of him by the provisions of this act shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in any sum from one hundred to five hundred dollars, and may be dismissed from office.

Sec. 12. That all receipts issued by tax collectors for taxes paid under this act shall be made on blanks prepared by the Comptroller, and any tax collector who shall issue a manuscript receipt for taxes herein levied, or use any form of receipt other than that furnished him by the Comptroller, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished as provided in section 11 of this act.

Sec. 13. An habitual drunkard, within the meaning of this act, is one who makes it a habit, or who habitually becomes intoxicated by the voluntary use of intoxicating liquors; and in all suits for the breach of such bond for unlawfully selling to an habitual drunkard, the question whether or not such person is an habitual drunkard shall be determined by the court or jury trying such case, as any other fact.

Sec. 13a. The provisions of this act shall not apply to wines produced from grapes grown in this State, while the same is in the hands of the producers or manufacturers thereof.

Sec. 14. All laws and parts of laws in conflict herewith are hereby repealed.

Sec. 15. The evils designed to be remedied by this act creates an emergency and an imperative public necessity for the act to take effect and be in force from and after its passage; and the fact that the Comptroller of Public Accounts is required to send out his blanks by the first day of May, creates an imperative public necessity that this act take effect at once, and it is therefore enacted that this act shall take effect and be in force from and after its passage.

[Note—The foregoing act was presented to the Governor of Texas for his approval on the 6th day of May, A. D. 1893, but was not signed by

him, nor returned to the house in which it originated, with his objections thereto, within the time prescribed by the Constitution, and thereupon became a law without his signature. J. R. Curl, Acting Secretary of State.]

PUBLIC FREE SCHOOLS.

CHAP. 122.—[S. H. B. Nos. 30, 115, et al.] An act to provide for a more efficient system of public free schools for the State of Texas; defining the school funds; providing for the investment of the permanent fund, and the apportionment of the available fund; defining the duties of certain State officers in reference to the public free schools; creating the offices of State and county superintendents; providing for their election and salary, and prescribing their qualifications and duties; prescribing the duties of other officers in reference to public schools and public school funds; making county judges ex officio county superintendents in all counties not having county superintendents, and providing for their compensation; providing for the election of school trustees, and prescribing their qualifications and duties; providing for the creation of school districts in all the counties of this State; providing for the levy and collection of special taxes for the further maintenance of the public free schools, and the erection of school houses; providing for boards of examiners and the issuance of teachers' certificates; providing compensation and prescribing the duties of teachers employed thereunder, and preventing the altering or changing of teachers' certificates; regulating the transfer of the school funds; fixing the scholastic age; providing for taking the scholastic census; authorizing trustees to administer oaths; and providing penalties for refusing to answer questions in regard to the age of children, and other penalties for violations of the provisions of this act; repealing all laws and parts of laws in conflict with the provisions of this act; and declaring an emergency.

Section 1. Be it enacted by the Legislature of the State of Texas: That the constitutional provisions relating to public schools are hereby appended as a part of the school laws of this State, as follows:

Article VII.

Section 1. A general diffusion of knowledge being essential to the preservation of the liberties and rights of the people, it shall be the duty of the Legislature of the State to establish and make suitable provisions for the support and maintenance of an efficient system of public free schools.

Section 2. All funds, lands, and other property heretofore set apart and appropriated for the support of the public schools, all the alternate sections of lands reserved by the State out of grants heretofore made, or that may hereafter be made, to railroads or other corporations of any nature whatsoever, one-half of the public domain of the State, and all sums of money that may come to the State from the sale of any portion of the same, shall constitute a perpetual public school fund.

Section 3. One-fourth of the revenue derived from the State occupation taxes, and a poll tax of one dollar on every male inhabitant of this State between the ages of twenty-one and sixty years, shall be set apart annually for the benefit of public free schools, and in addition thereto there shall be levied and collected an annual ad valorem State tax of such an amount, not to exceed twenty cents on the one hundred dollars valuation, as, with the available school fund arising from all other sources, will be sufficient to maintain and support the public free schools of this State for a period of not less than six months in each year; and the Legislature may also provide for the formation of school districts within all or any of the counties of this State by general or special laws, without the

local notice required in other cases of special legislation, and may authorize an additional annual ad valorem tax to be levied and collected within such school district for the further maintenance of public free schools, and the erection of school buildings therein: Provided, that two-thirds of the qualified property tax paying voters of the district, voting at an election to be held for that purpose, shall vote such tax, not to exceed in any one year twenty cents on the one hundred dollars valuation of the property subject to taxation in such district; but the limitation upon the amount of district tax herein authorized shall not apply to incorporated cities or towns constituting separate and independent school districts.

Section 4. The lands herein set apart to the public free school fund shall be sold under such regulations, at such times, and on such terms as may be prescribed by law, and the Legislature shall not have power to grant any relief to purchasers thereof. The Comptroller shall invest the proceeds of such sales and of those heretofore made as may be directed by the board of education, herein provided for, in the bonds of the United States, the State of Texas, of counties in said State, or in such other securities and under such restrictions as may be prescribed by law; and the State shall be responsible for all investments.

Section 5. The principal of all bonds and other funds, and the principal arising from the sale of the lands hereinbefore set apart to said school fund, shall be the permanent school fund; and all the interest derivable therefrom, and the taxes herein authorized and levied, shall be the available school fund, to which the Legislature may add not exceeding one per cent annually of the total value of the permanent school fund; such value to be ascertained by the board of education until otherwise provided by law; and the available school fund shall be applied annually to the support of the public free schools. And no law shall ever be enacted appropriating any part of the permanent or available school fund to any other purpose whatever; nor shall the same or any part thereof ever be appropriated to or used for the support of any sectarian school; and the available school fund herein provided shall be distributed to the several counties, according to their scholastic population, and applied in such manner as may be provided by law.

Section 6. All land heretofore or hereafter granted to the several counties of this State for educational purposes are of right the property of said counties respectively to which they were granted, and title thereto is vested in said counties, and no adverse possession or limitation shall ever be available against the title of any county. Each county may sell or dispose of its lands, in whole or in part, in manner to be provided by the commissioners court of the county. Actual settlers residing on said lands shall be protected in the prior right of purchasing the same, to the extent of their settlement, not to exceed one hundred and sixty acres, at the price fixed by said court, which price shall not include the value of existing improvements made thereon by such settlers. Said lands and the proceeds thereof, when sold, shall be held by said counties alone as a trust for the benefit of public schools therein, said proceeds to be invested in bonds of the United States, the State of Texas, or counties in said State, or in such other securities and under such restrictions as may be prescribed by law; and the counties shall be responsible for all investments; the interest thereon, and other revenue, except the principal, shall be the available fund.

Section 7. Separate schools shall be provided for the white and colored children, and impartial provision shall be made for both.

Section 8. The Governor, Comptroller, and Secretary of State shall constitute a board of education, who shall distribute said funds to the several counties, and perform such other duties concerning public schools as may be prescribed by law.

Sec. 2. Hereafter when any county bonds are offered for sale as an investment for the permanent public free school fund of the State, and the same are desired for investment, the party offering and proposing to sell such bonds shall first submit them to the Attorney-General of the State, who shall carefully inspect and examine the same, in connection with the law under which they were issued, and shall diligently inquire into all the facts and circumstances, so far as may be necessary to determine the validity thereof, and upon being satisfied that such bonds were issued in conformity with law, and that they are valid and binding obligations upon the county by which they purport or appear to have been issued, he shall thereupon certify, and his certificate to that effect so procured by the party offering such bonds for sale shall be submitted to the Comptroller, or board of education, with the bonds so offered for sale; and should the same be purchased as an investment for the permanent public free school fund from the county issuing the same, or from any person authorized by said county to act for it in the negotiation or sale of such bonds, they shall thereafter be held in every action or proceeding in which their validity is or may be called in question to be valid and binding obligations of the county issuing the same, unless fraudulently issued, or issued in violation of constitutional limitation; and in every such action the certificate of the Attorney-General as aforesaid (which shall be carefully preserved by the Comptroller) shall be admitted and received as prima facie evidence of the validity of the bonds and coupons thereto, which may have been so purchased.

Sec. 3. Nothing in the preceding section shall be so construed as to relieve the Comptroller or board of education from the duty of a careful examination of the bonds offered as an investment for the permanent public free school funds of the State, an investigation of the facts tending to show the value and validity thereof, and such board of education may decline to purchase the same unless satisfied that they are a safe and proper investment for such funds; and no county bonds shall be purchased as an investment for the permanent public free school fund that do not bear interest at the rate of at least five per cent per annum, nor shall the amount paid for any such bonds exceed the par or face value thereof; and it shall be the duty of the board of education and Comptroller to decline to purchase the bonds of any county whose indebtedness, inclusive of the bonds so offered, shall exceed five per cent of the assessed value of the real estate in such county; and if default be made in the payment of interest when due upon any such bonds, the board of education may, at any time prior to the payment of such overdue interest, elect to treat the principal as also due, and the same shall thereupon, at the option of the board of education, become due and payable, and the payment of both such principal and interest shall in all cases be enforced in such manner as is or may be provided by law, and the right to enforce such collection shall never be barred by any law or limitation whatever.

Sec. 4. In all cases where the proceeds of the sale of any bonds have

been received by the proper officers of the county, or by the party acting for it in negotiating the sale thereof, such county shall be thereafter estopped from denying the validity of such bonds so issued, and the same shall be held to be valid and binding obligations of the county; and in any action upon such bonds, or coupons thereto, judgment shall be rendered against the county for the amount of the bonds sued on and the interest thereon at the rate mentioned therein, deducting such amounts, if any, as have been previously paid thereon.

Sec. 5. The payment of any interest upon any bonds heretofore purchased with public school funds, or belonging thereto, shall be deemed and held a waiver of any supposed error, irregularity, or want of authority affecting or tending to affect the validity of any such bonds, and the same shall thereafter be held to be valid and binding obligations upon the county by which they appear or purport to have been issued, notwithstanding any such supposed error, irregularity, or want of authority as aforesaid.

Sec. 6. The district court of Travis county shall have jurisdiction of any suit upon bonds or obligations belonging to the permanent public school funds, or purchased therewith, concurrent with that of any other court having jurisdiction in such case.

Sec. 7. The provisions of this act shall extend to any bonds or securities other than the bonds of this State or of the United States, in which the public school funds are or may hereafter be invested, as now or hereafter authorized or prescribed by law, and also to any bonds or securities purchased with any of the permanent funds set apart for the support, maintenance, and improvement of any of the asylums or other institutions of this State.

Sec. 8. The proceeds of any leasing or renting of lands heretofore granted by the State of Texas to the several counties thereof for educational purposes shall be appropriated by the commissioners courts of said counties in the same manner as is provided by law for the appropriation of the interest on bonds purchased with the proceeds of the sale of such lands; and the proceeds arising from the sale of timber on said lands, or any part thereof, shall be invested in like manner as the Constitution and law requires of proceeds of sales of such lands; and it shall be unlawful for the commissioners court of any county to apply said proceeds, or any part thereof, to any other purpose, or to loan the same, or to invest the same, except as above required.

Sec. 9. One-fourth of all occupation taxes, and the one dollar poll tax levied and collected for the use of public free schools, exclusive of the delinquences and cost of collection; the interest arising from any bonds or funds belonging to the permanent school fund, and all the interest derivable from the proceeds of sale of land heretofore set apart for the permanent school fund, which have hitherto or may hereafter come into the State treasury; all moneys arising from the lease of school lands, and such an amount of State tax, not to exceed twenty cents on the one hundred dollars valuation of property, as may be from time to time levied by the Legislature, shall constitute the available school fund, which fund shall be apportioned annually to the several counties of this State, according to the scholastic population of each, for the support and maintenance of the public free schools.

(a) One per cent of the full value of what is known, held, and con-

trolled by the State of Texas as the permanent school fund, shall be transferred annually hereafter to the credit of the available school fund of the State, as belonging to it and a part of the same, and which henceforward shall constitute a part of the State's available school fund, and to be used and applied for the support, maintenance and benefit of the public free schools of the State, as now or hereafter may be provided by law.

(b) It shall be the duty of the Comptroller and the State Treasurer to notify the State board of education of the amount to the credit of the permanent school fund on the first to the fifteenth day of July each and every year. The said statement shall show the amount invested in the bonds, the amount of outstanding land notes, and the amount of cash on hand to the credit of the permanent school fund. Upon the receipt of this information the State board of education shall estimate one per cent of the said permanent school fund, and shall issue directions to the said Comptroller and State Treasurer to transfer the one per cent of the permanent fund thus found to the credit of the available school fund.

(c) It shall be the duty of the State Comptroller and State Treasurer, upon the receipt and delivery to them by said board of education of the showing and statement aforesaid, to transfer and place to the credit of the available school fund of the State the amount found and ascertained by said board of education as aforesaid, and accruing from the one per cent of value of the permanent school fund, and transferred to the available school fund under section one of this act: Provided, that no part or the value thereof of the unsold public land belonging to said fund shall be included or considered by the Comptroller and State Treasurer in ascertaining the amount to be transferred from the permanent to the available free school fund.

(d) It shall be the duty of the State board of education and Comptroller, in the management and investment of the permanent school fund, to provide, reserve, and set apart in cash annually an amount sufficient of same to meet the one per cent annual transfer to the available fund.

Sec. 10. No part of the public school fund shall be appropriated to or used for the support of any sectarian school.

Sec. 11. All available public school funds of this State shall be appropriated in each county for the education alike of white and colored children, and impartial provisions shall be made for both races.

Sec. 12. All children, without regard to color, over eight years of age and under seventeen years of age, at the beginning of any scholastic year, shall be entitled to the benefit of the public school fund for that year.

Sec. 13. The scholastic year shall commence on the first day of September of each year and end on the thirty-first day of August thereafter.

Sec. 14. The children of the white and colored races shall be taught in separate schools, and in no case shall any school consisting partly of white and partly of colored children receive any aid from the public school fund.

Sec. 15. The terms "colored race" and "colored children," as used in the preceding section, and elsewhere in this act, include all persons of mixed blood descended from negro ancestry.

Sec. 16. All conveyances, devises, and bequests of property for the benefit of the public schools made by any one for any county, city, town,

or district shall, when not otherwise directed by the grantor or devisor, vest said property in the county judge of the county, or the mayor of the city or town, or the trustees of the school district, or their successors in office, as the trustees for those to be benefited thereby, and the same, when not otherwise directed, be administered by said officers under such rules as may be established by the State Superintendent.

Sec. 17. All public schools in this State shall be required to have taught in them orthography, reading in English, penmanship, arithmetic, English grammar, modern geography, composition, physiology, and hygiene, including the effects of alcoholic stimulants and narcotics on the human system, and other branches as may be agreed on by the trustees or directed by the State Superintendent.

Sec. 18. County superintendents, county judges, and all school officers shall take oaths to faithfully and impartially discharge the duties of their respective offices.

Sec. 19. Public schools shall be taught for five days in each week. Schools shall be closed on all legal holidays. A school month shall consist of not less than twenty school days, exclusive of holidays, and shall be taught for not less than seven hours each day, including intermissions and recesses.

Sec. 20. There shall be elected, at each general election for State and county officers, a State Superintendent of Public Instruction, who shall hold his office for a term of two years, and until his successor is elected and qualified, and shall receive an annual salary of twenty-five hundred dollars, and may employ as many clerks as may be necessary to perform the duties of his office, the number to be determined by the State board of education: Provided, that no greater number shall be employed than the Legislature has appropriated salaries for. The superintendent shall take the oath of office prescribed by the Constitution, and shall perform such duties as may be prescribed by law. Appeals shall always lie from the rulings of the State Superintendent to the State board of education.

Sec. 21. The Superintendent of Public Instruction shall be charged with the administration of the school law and a general superintendency of the business relating to the public schools of the State. He shall hear and determine all appeals from the rulings and decisions of subordinate school officers, and all such officers and teachers shall conform to his decisions unless they are reversed by the State board of education. He shall prescribe suitable forms for reports required of subordinate school officers and teachers, and blanks for their guidance in transacting their official business and conducting public schools, and shall from time to time prepare and transmit to them such instructions as he may deem necessary for the faithful and efficient execution of the school laws, and by whatsoever is so communicated to them shall they be bound to govern themselves in the discharge of their official duties. He shall examine and approve all accounts of whatsoever kind against the school fund that are to be paid by the State Treasurer, and upon such approval the Comptroller shall be authorized to draw his warrant.

Sec. 22. The State Superintendent shall file all reports, documents, and papers transmitted to him and the State board of education by county or city school officers, and from all other sources, pertaining to public schools, and keep a complete index of the same.

Sec. 23. The State Superintendent shall advise and counsel with the

school officers of the counties, cities, towns, and school districts as to the best methods of conducting the public schools, and shall be empowered to issue instructions and regulations, binding for observance on all officers and teachers, in all cases wherein the provisions of the school law may require interpretation in order to carry out the designs expressed therein; also in cases that may arise in which the law has made no provision, and where necessity requires some rule in order that there may be no hardships to individuals, and no delays or inconvenience in the management of school affairs.

Sec. 24. He shall cause to be printed for general distribution such number of copies of the school laws as may at any time be necessary, to be determined by the State board of education.

Sec. 25. The state Superintendent shall require of county judges, county, city, and town superintendents, county and city treasurers, and treasurers of school boards, and other school officers and teachers, such school reports relating to the school fund and other school affairs as he may deem proper for collecting information and advancing the interests of the public schools, and shall furnish to county, city, and town superintendents, and other school officers and teachers, for the use of such officers and teachers, the necessary blanks and forms for making such reports and carrying out such instructions as may be required of them; and any county judge, or county, city, or town superintendent, assessor, treasurer, or teacher, who shall willfully fail to make such report within twenty days after the same shall have been required by the State Superintendent to be filed, shall be deemed guilty of a misdemeanor, and shall on conviction be fined in any sum not less than twenty-five dollars nor more than five hundred dollars, the same to be paid, when collected, to the available school fund.

Sec. 26. It shall be the duty of the county treasurer of each county, and the city treasurer, or treasurer of school board of each city or town having exclusive control of its schools, to report the receipts and disbursements of the school fund, State and county, to the commissioners court of his county. Said report shall be made at the first regular term of the commissioners court after the thirty-first day of August of each year, or the end of the school year, and shall consist of a complete exhibit of all moneys received and paid out by him, to whom paid, upon what voucher, and what moneys, if any, remain in his hands.

Sec. 26a. When such report shall have been examined and approved by the commissioners court, it shall be the duty of such treasurer to immediately transmit a copy of such report, including a statement of the status of the permanent county school fund, certified to by the county clerk, to the State Superintendent of Public Instruction, at Austin: Provided, that city treasurers, and treasurers of city school boards having exclusive control of its schools, shall not be required to include in their reports statements of the status of the permanent county school funds.

(b) Any county or city treasurer, or treasurer of the school board of each city or town having exclusive control of its schools, failing to make and transmit said report and certified copy, or either, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than fifty dollars nor more than five hundred dollars.

Sec. 27. The State Superintendent shall, one month before the meeting of each regular session of the Legislature, and ten days prior to any special

session thereof, at which, under the Governor's proclamation convening the same, any legislation may be had respecting the public schools, make a full report to the board of education of the condition of the public schools throughout the State. Such reports shall give all the information called for by the board of education, and shall contain such other matters as the State Superintendent shall deem important.

Sec. 28. The Governor shall lay such reports before the Legislature.

Sec. 29. Two thousand copies of said report shall be printed in pamphlet form for the use of the Legislature and for distribution among the various school officers and libraries within the State, and the superintendents of public schools of other States and Territories of the United States and Canada, and the Bureau of Education at Washington City.

Sec. 30. The State Superintendent shall be allowed by the State board of education an amount necessary for the expenses for books, postage, express charges, printing, stationery, clerk and porter hire, and other necessary office expenses: Provided, that said State board shall make no allowance of funds in excess of the amounts appropriated by the Legislature for this department: And provided, that in all cases when there is a deficiency in the available school fund and warrants are issued in settlement of accounts for expenses provided for in this section, said warrants shall not be negotiable until after such accounts shall have been approved by the Legislature.

Sec. 31. The Governor, Secretary of State, and Comptroller shall constitute a State board of education, who shall hold their sessions at the seat of government. The Governor shall be ex officio president of the board, and a majority of them shall constitute a quorum for the transaction of business.

Sec. 32. The State Superintendent shall be ex officio secretary of the State board of education, and shall keep a complete record of all its proceedings, which shall be signed by the president of the board and attested by the superintendent.

Sec. 33. The State board of education shall, on or before the first day of August of each year, make an apportionment of the available school fund among the several counties of the State and to the several cities and towns constituting separate school organizations, according to the scholastic population of each, and the State Superintendent shall deliver an abstract of such apportionment to the Comptroller, and to each county superintendent or judge and president of the board of school trustees of each city or town that has control of the public schools, a statement of the amount apportioned to each county, city, or town, as the case may be; and he shall issue to the county treasurer of each county, and to the treasurer of the school fund of any city or town having control of the public schools, a certificate, with thirteen collection coupons attached, for the amount of the available school fund so apportioned to each county, city or town, which certificate shall be signed by the Governor as president of the board of education, countersigned by the Comptroller of Public Accounts, and attested by the Secretary.

Sec. 34. The Comptroller shall keep a separate account of the available school fund arising from every source. He shall draw his warrant in favor of the treasurer of the school fund of each county, city, or town that has control of its public schools, in such sum as each is entitled to upon a pro rata distribution of the available school fund in the hands of

the State Treasurer, upon the presentation to him of a coupon, properly filled out and receipted by said local treasurer.

(a) The Comptroller shall, at the time the certificates of apportionment are issued, advise the county treasurer of each county of the amount which the county tax collector of his county is authorized to pay on coupon No. 1 to the said county treasurer, for the available school fund for the ensuing school year.

(b) The Comptroller shall, on or before the meeting of each regular session of the Legislature, report to the Legislature an estimate of the amount of the available school fund to be received for the succeeding two years, and the several sources from which the same accrues, and which may be subject to appropriation for the establishment and support of public schools.

Sec. 35. The State Treasurer shall receive and hold as a special deposit all moneys belonging to the available school fund, and keep an account of the several sources from which they accrue. He shall open and keep an account with every county, city, or town in the State to which the board of education issues a certificate (showing them to be entitled to receive any portion of the available free school fund), wherein he shall credit each such county, city, or town with the amount apportioned to it by such certificate.

(a) On the first day of each month the State Treasurer shall set apart to each county, city, or town such a portion of the available free school fund as has come into his hands during the preceding month, as is shown by the certificates held by them to be due to each, upon a pro rata distribution thereof, and he shall notify each local treasurer of the school fund, through the State Superintendent of Public Instruction, of the amount which can be paid on the remaining coupons, until the whole amount of apportionment to each county or independent school district has been paid. Said money so set apart shall not be used by the State Treasurer for any purpose other than to pay the warrant drawn by the State Comptroller upon presentation of such coupons.

(b) Whenever the treasurer of the school fund of any such county, city, or town shall present the Comptroller's warrant to the State Treasurer for payment, he shall pay to him such an amount as has been set apart under the provisions of this act to such county, city, or town, and no more; and shall pay from time to time, when demanded, such sums of money as have been so set apart to the treasurer of the school fund of such county, city, or town, taking his receipt therefor. The State Treasurer shall also charge the various counties, cities, and towns in their respective accounts with the amount or amounts so paid, and shall also, at the time of payment, endorse upon the back of such warrant the amount paid, the date when paid, and sign the same officially. When the whole amount of such certificate therefor has been paid, it shall be by such treasurer of the school fund presenting it receipted in full and delivered to the State Comptroller.

Sec. 36. The State Treasurer shall, thirty days before each regular session of the Legislature, and ten days before any special session, at which any legislation can be had respecting the public schools, report to the Governor the condition of the permanent and available school fund, the amount of each, and the manner of its disbursement; and he shall also make any additional reports required by the board of education.

(a) The Treasurer shall not under any circumstances use any portion of the permanent or available school funds in payment of any warrant drawn against any other fund whatever.

Sec. 37. The office of county superintendent of public instruction is hereby created, and the commissioners court of any county in the State may, when in their judgment it may be advisable, provide for the election of a county superintendent of public instruction at each general election, who shall be a person of educational attainments, good moral character, and executive ability, a qualified voter of said county, and the holder of a first grade teacher's certificate, who shall hold his office for the term of two years, and until his successor is elected and qualified; and said commissioners court, when they so provide for the election of a county superintendent, shall appoint a county superintendent of public instruction, with the qualifications above provided, who shall perform the duties of such office until a county superintendent shall have been elected as hereinbefore provided, and shall have qualified.

(a) Such county superintendent of public instruction shall have, under the direction of the State Superintendent of Public Instruction, the immediate supervision of all matters pertaining to public education in his county. He shall confer with and counsel teachers and trustees, visit and examine schools, deliver lectures on topics calculated to excite an interest in public education. He shall organize and hold, with such assistance as may be necessary, at least three institutes of two days each during the school year: Provided, that a failure to comply with this requirement shall be sufficient cause for his removal from office. He shall have authority to hold more than three institutes during the school year, if in his opinion the educational interests of his county demand more.

(b) Such county superintendent of public instruction, before entering upon the discharge of his duties, shall take the oath of office prescribed by law, and shall enter into a bond in the sum of five thousand dollars, with good and sufficient sureties, to be approved by the county commissioners court, and to be filed with the county clerk of his county, and said bond shall be made payable to the county commissioners court and their successors in office, in trust for the available school fund of the county, and be conditioned for the faithful performance of the duties of his office. In case said bond is forfeited and collected, the sum so collected shall become a part of the available school fund of the county.

(c) He shall approve all vouchers legally drawn against the school fund of his county. He shall examine all contracts between the trustees and teachers of his county, and if in his judgment such contracts are proper, he shall approve the same: Provided, that in considering any contract between a teacher and trustees he shall be authorized to consider the amount of salary promised to the teacher. He shall discharge such other duties as may be prescribed by the State Superintendent. He shall distribute all school blanks and books to the officers and teachers of the public schools. He shall make such reports to the State Superintendent as may be required by that officer. He shall immediately after qualifying appoint a county board of examiners, consisting of three resident white teachers holding first grade certificates, who shall serve during the pleasure of the county superintendent of public instruction, subject to the provisions hereinafter made.

(d) The county superintendents of public instruction herein provided

for shall receive from the available school fund of their respective counties annual salaries as follows: For each county with a scholastic population of two thousand or more, and not exceeding three thousand, he shall receive an annual salary of eight hundred dollars; for each county with a scholastic population of three thousand or more, and not exceeding four thousand, he shall receive nine hundred dollars; for each county with a scholastic population of four thousand or more, and not exceeding five thousand, he shall receive one thousand dollars; for each county with a scholastic population of five thousand or more, he shall receive twelve hundred dollars. The compensation herein provided for shall be paid quarterly by the county treasurer on the order of the commissioners court: Provided, that the salary for the quarter ending on the second Monday in November shall not be paid until the county superintendent presents a receipt from the State Superintendent of Public Instruction showing that he has made all reports required of him.

(e) In each county in this State having no school superintendent the county judge shall be ex officio county superintendent of public instruction, and shall perform all the duties required of the county superintendent in this act.

(f) The county judge shall give bond in the sum of one thousand dollars, to be approved by the county commissioners court, and filed with the county clerk, said bond to be made payable to the county commissioners court and their successors in office, and conditioned for the faithful performance of his duties. He shall also take the oath of office prescribed by the Constitution.

(g) The county judge who serves as ex officio county superintendent of public instruction shall be entitled to the following compensation: For \$500 or less of the school fund actually disbursed by the county treasurer annually, beginning September first, \$25 shall be allowed such judge; for \$500 and not exceeding \$1000 so disbursed annually, \$50 shall be allowed; and for each additional \$1000 or fractional part thereof so disbursed annually, \$10 shall be allowed to such judge; and ten per cent on the salary thus allowed shall be added for postage, stationery, and printing expenses connected with the administration of the school law. Such compensation shall be paid to the county judge by the county treasurer out of the public school fund of the county upon the approval of his voucher by the commissioners court, in the same manner and upon the same conditions as provided in this act for the payment of the salaries of county superintendents.

(h) The county superintendent, upon the receipt of the certificate issued by the board of education for the State fund belonging to his county, shall apportion the same to the several school districts (not including the independent school districts of the county), making a pro rata distribution as per the scholastic census, and shall at the same time apportion the income arising from the county school fund to all the school districts, including the independent school districts of the county, making a pro rata distribution as per scholastic census.

(i) The county commissioners court of any county in this State shall have the power and authority, when in their judgment such court may deem it advisable, to abolish the office of county superintendent of public instruction in their county by an order entered on the minutes of their court at a regular term thereof.

(j) Whenever such office is abolished the county superintendent shall serve out the term for which he was elected, and at the expiration of his term he shall turn over the books, papers, records, and other school property in his possession to the county judge, who shall thereafter perform the duties of county superintendent.

Sec. 38. The treasurers of the several counties shall be treasurers of the available public free school fund, and also of the permanent county school fund for their respective counties. The treasurers for the several counties shall be allowed for receiving and disbursing the school funds one-half of one per cent for receiving and one-half of one per cent for disbursing, said commissions to be paid out of the available school fund of the county upon an order of the commissioners court approving the account of such treasurer: Provided, no commissions shall be paid for receiving the balance transmitted to him by his predecessor, or for turning over the balance in his hands to his successor: And provided further, that he shall receive no commissions on money transferred or invested.

(a) Within twenty days after the receipt of a certificate of his election, it shall be the duty of the county treasurer to execute a bond, with two or more good and sufficient sureties, payable to the county judge and his successors in office, for the faithful performance of his duties under this chapter; said bond shall be an amount equal to the probable amount of available school fund and of the permanent county fund which may come into his hands, to be estimated by the county superintendent, or county commissioners court in counties having no superintendent, and shall be made payable and conditioned as prescribed by the general law.

(b) Upon receipt of the certificate from the State board of education, duly countersigned by the Comptroller, showing the pro rata of the available school fund to which his county is entitled under the apportionment, the county treasurer shall present coupon No. 1 to the collector of taxes for his county, who shall pay to the county treasurer, on the first day of each month, all school taxes that have come into his hands during the preceding month, until the Comptroller's coupon draft on the collector is paid up.

(c) The treasurer shall endorse the amounts so paid by the collector on the proper coupon, and shall also execute and deliver to the collector duplicate receipts, countersigned by the clerk of the county court, for such payments, and when the whole amount of such coupon shall have been paid the county treasurer shall deliver the same to the collector, in whose hands it shall be a voucher for so much money paid in his settlement with the Comptroller of Public Accounts. In case the State school tax shall not suffice to pay off the apportionment to the county, the county treasurer shall, on receipt of notice from the State Superintendent of the amount which can be paid by the State Treasurer on the apportionment to his county, enter upon the proper coupon the amount so signified, and present the same for collection to the Comptroller of Public Accounts. When the entire amount of the apportionment to the county shall have been paid the county treasurer shall deliver the certificate of apportionment, receipted in full, to the State Comptroller.

(d) The county treasurer, upon receiving notice from the State Superintendent of the amount apportioned to his county, shall report the same to the county superintendent, who shall immediately apportion the same

to the several districts, according to the scholastic census, and the county superintendent shall immediately notify the county treasurer of the amount apportioned to each district. It shall also be the duty of the county treasurer to keep a separate account with each district, showing the amount apportioned according to the certificate of apportionment, and the amount paid out to each school and district: Provided, in no case shall the county treasurer pay out any part of the school fund without the approval of the county superintendent.

(e) All balances of the general fund not appropriated for the current year shall be carried over by the treasurer as part of the general fund for the county for the succeeding year, and unexpended balances to the credit of any district shall be carried over for the benefit of such school district: Provided, that if any such balance shall exceed five dollars per capita, according to the last scholastic census, then such excess over five dollars per capita shall be reapportioned to the school districts of the county.

(f) All schools, both white and colored, in the same district shall be maintained the same length of time each year, as near as may be.

Sec. 39. The commissioners court of the several counties of this State shall have power to levy a special tax for the further maintenance of public free schools and the erection within each school district of school buildings therein: Provided, two-thirds of the qualified property tax paying voters of the district voting at an election to be held for the purpose, shall vote such tax, not to exceed in any year twenty cents on the one hundred dollars valuation of the property subject to taxation in such district.

Sec. 40. It shall be the duty of the county commissioners court of all organized counties, not already subdivided, to subdivide their respective counties into convenient school districts by the first day of September, 1893, or as soon thereafter as practicable, and counties hereafter organized shall be subdivided before the beginning of the next ensuing school year. Said courts shall designate said school districts by numbers: Provided, that when districts are once established they shall not be changed without the consent of a majority of the legal voters in all districts affected by such change. But two or more adjacent school districts may, by a majority of the qualified voters of each district, and with the approval of the county superintendent, be consolidated, and in such case the county superintendent shall designate such consolidated district by suitable number. The commissioners court of any organized county to which any unorganized county is attached for judicial purposes may, and upon the written petition of not less than ten resident citizens of such unorganized county shall, create such unorganized county into one or more school districts, and shall cause an order to that effect to be entered upon the minutes of said court.

Sec. 41. Said school districts shall be so made as to be as convenient as possible to the scholastic population, and said courts shall give the metes and bounds of each district, and shall designate the same carefully by giving the whole surveys and parts of surveys, with acreage of whole surveys and approximate acreage of parts of surveys in each district, and the county clerk shall carefully record the same; and each district shall be given a number, which number shall be painted in large letters or figures over the doors of the school houses, said signs to be provided by the district trustees of each district.

Sec. 42. All polls for school district elections shall be opened at 10 o'clock a. m., and shall not be closed before 4 o'clock p. m., and none of the officers holding such election shall be entitled to compensation therefor.

Sec. 43. Whenever twenty or more qualified property tax paying voters of any district, or a majority of the property tax paying voters in any district, wish, for the purpose of taxing themselves for the building of school houses or supplementing the State school fund apportioned to said district, shall make application to the county commissioners court, duly signed by them, said court shall enter up an order for an election to be held in said district to determine whether such tax shall be levied or not; said application shall designate the amount of tax asked to be levied, and the order of said court shall state—

(a) When said election shall be held.

(b) At what point or points the polls shall be opened.

(c) The amount of tax to be voted on: Provided, that no election shall be held to determine the levy of a tax exceeding twenty cents on the \$100 valuation of property. The commissioners court shall order the sheriff to give notice of such election by posting three notices in the district for three weeks before the election, and the sheriff shall obey such order. Not more than one such election shall be held in the same scholastic year.

Sec. 44. The county commissioners court shall appoint a presiding officer for each voting place to hold said election, who shall make due return thereof as is required by law for holding a general election; and all persons who favor taxation for school purposes shall have written or printed on their tickets, "For school tax," and all persons opposed to such taxation shall have written or printed on their tickets, "Against school tax."

Sec. 45. All persons who are legal qualified voters in this State and of the county of their residence, and who are resident property tax payers in said district, as shown by the last assessment roll of the county, shall be entitled to vote in any such school district; and if at any such election two-thirds of such qualified voters voting at such election shall vote for the tax, it shall be declared by the county commissioners court to have carried in said district, and be so entered upon the records of said court to have been carried; and in all cases the returning officer shall make a full and complete return, as in other elections, to said court within five days after said election is held, and said return shall be opened and counted at the first meeting of said court and the result declared.

Sec. 46. Any one person may challenge a voter, but if the challenged party takes an oath that he is a qualified voter of the State and county, and that he is a resident property tax payer in said district, he shall be entitled to vote.

Sec. 47. At any time after the expiration of two years after any district has levied a school tax on itself, twenty property tax paying qualified voters, or a majority of such voters of the district, may have an election held, upon the proper petition to the commissioners court, to determine whether such tax shall be abrogated, increased, or diminished. Such election shall be held and conducted as elections provided for in section 44 of this act, and persons entitled to vote at such election shall possess the qualifications prescribed in section 45 of this act.

Sec. 47a. If the election be to abrogate or diminish the school tax, each voter favoring the abrogation or diminution shall have written or printed upon his ticket, "For abrogating school tax," or "For diminishing school tax to — cents," as the case may be; and each voter opposing the abrogation or diminution shall have written or printed on his ballot, "Against abrogating school tax," or "Against diminishing school tax to — cents," as the case may be, and a majority vote shall be necessary to abrogate or diminish the school tax.

Sec. 47b. If the election be to determine whether the tax shall be increased, each voter favoring the increase of the school tax shall have written or printed on his ballot, "For increase of school tax," and those opposing such increase shall have written or printed on their ballots, "Against increase of school tax;" and if two-thirds of the votes cast be in favor of increasing the tax, it shall be increased.

Sec. 48. The county commissioners court shall, at the time of levying the tax for county purposes, also levy upon each school district the amount of taxes said district has voted upon itself, and it shall be the duty of the tax assessor to assess the same as other taxes, and to make an abstract showing the amount of special tax assessed against each school district in his county, and to furnish the same to the county superintendent, on or before the first day of September of the year for which such taxes are assessed; and the taxes levied upon the real property in said district shall be a lien thereon, and the same shall be sold for unpaid taxes in the manner and at the time of sales occur for State and county taxes. A special tax voted in any district after the levy of county taxes shall be levied at any meeting of the commissioners court prior to the delivery of the assessment rolls by the assessor. The tax assessor shall assess and the tax collector shall collect said district taxes as other taxes. The tax assessor shall receive a commission of one per centum for assessing such tax, and the tax collector a commission of one per centum for collecting the same. The tax collector shall pay all such taxes to the county treasurer, and said treasurer shall credit each school district with the amount belonging to it, and pay out the same as other school moneys.

Sec. 49. Trustees of districts shall make contracts with teachers to teach the public schools of their respective districts, but the compensation to teachers under written contract with the trustees shall be approved by the county superintendent before the school is taught, stating that the teacher will teach such school for the time and money specified in the contract; and the board of trustees shall have authority, whenever the average daily attendance exceeds thirty-five pupils, to employ one competent assistant to every thirty-five pupils of such excess, and fractional part thereof exceeding fifteen pupils; and all children within the scholastic age residing in such district, though they may have settled in such a district since the scholastic census was taken, shall be entitled to receive all the benefits of the schools of such district; and in districts that levy a special school tax the trustees shall have the right to increase the salaries of teachers and the scholastic age, and may also have the schools taught longer than six months if it is deemed advisable.

Sec. 50. On the first Saturday in June after the passage of this act the qualified voters of each school district, at a school district meeting for that purpose, shall elect three trustees for said district, who shall enter upon the discharge of their duties on the first day of July next following.

They shall immediately thereafter organize by electing one of their number president and one secretary of the board of trustees. The terms of office of said trustees shall be divided into two classes, and they shall draw for the different classes; the one drawing number one shall serve for one year, and those drawing numbers two and three shall serve for two years, and until their successors shall have been elected or appointed and shall have qualified. On the first Saturday in June of each year thereafter there shall be an election in each school district for the election of a trustee or trustees, as the case may be, and the trustee or trustees so elected shall serve for two years, and until their successor or successors shall have been elected or appointed and shall have been qualified. The trustees so elected or appointed shall, before entering upon the discharge of their duties, qualify by taking the oath, to faithfully perform their duties, and shall immediately file said oath with the county superintendent or county judge.

Sec. 51. The commissioners court shall appoint three persons, qualified voters of the district, to hold such election, who shall make returns thereof to the county superintendent within five days after such election shall have been held; and if no election be held, or if a vacancy occur in the board of trustees by death or otherwise, the county superintendent shall at once appoint a trustee or trustees, as may be necessary, for the full or unexpired term. If, at the time and place for holding such election, any or all of the persons so appointed to hold such election are absent or refuse to act, then the electors present may select of their number person or persons to act in the place of those absent or refusing to act. No person shall be eligible to serve as a school trustee who can not read and write, and has not been a resident of the school district for six months prior to election held for trustees.

Sec. 52. The trustees for school districts provided for in the preceding sections of this act, and their successors in office, shall be a body politic and corporate in law, and shall be known by and under the title and name of district trustees of district number —, and county —, State of Texas, and as such may contract and be contracted with, sue and be sued, plead or be impleaded in any court of this State of proper jurisdiction, and may receive any gift, grant, donation, or devise made for the use of the public schools of the district. All reports and other official papers shall be headed with the number of district and name of county.

Sec. 53. Trustees in making contracts with teachers shall determine the salary to be allowed, or wages to be paid, upon the following rates of tuition: To teachers holding first class certificates, not more than two dollars and fifty cents; to those holding second class certificates, not more than two dollars; and to such as hold third class certificates, not more than one dollar and fifty cents per month per capita shall be allowed for pupils within the scholastic age; and it shall not be lawful for trustees or teachers to demand as a condition of admittance into school the payment of extra tuition of pupils of scholastic age: Provided, that in no event shall teachers holding permanent certificates receive from the public free school fund more than eighty-five dollars per month, or those holding first grade certificates receive from the public free school fund more than seventy-five dollars per month, and those holding second grade certificates more than sixty dollars per month, and those holding third grade certificates more than forty dollars per month: Provided, that this re-

striction shall not apply to salaries of teachers in districts which levy a local tax for school purposes.

Sec. 54. School trustees shall determine how many schools shall be maintained in their respective school districts, and at what points they shall be located; they shall determine when the schools shall be opened and when closed; they shall contract with teachers and manage and supervise the schools, subject to the rules and regulations of the county and State superintendents; they shall approve all teachers' vouchers, and all other claims against the school fund of their district: Provided, that trustees of districts in making contracts with teachers shall not create a deficiency debt against the district.

Sec. 55. The trustees of school districts shall have the management and control of the public schools; they shall have the power to employ and dismiss teachers, but in cases of dismissal, teachers shall have the right of appeal to the county and State superintendents.

Sec. 56. The trustees of schools shall have the power to admit pupils over and under scholastic age, either in or out of the district, on such terms as they may deem proper and just: Provided, that in admitting pupils over and under the scholastic age, the school shall not be overcrowded to the neglect and injury of pupils within the scholastic age; and they may suspend from the privileges of schools any pupil found guilty of incorrigible conduct, but such suspension shall not extend beyond the current term of the school.

Sec. 57. The amount contracted by trustees to be paid a teacher shall be paid on a check, drawn by a majority of the trustees, on the county treasurer, and approved by the county superintendent. The check shall in all instances be accompanied by the affidavit of the teacher that he is entitled to the amount specified in the check, as compensation under his contract as a teacher.

Sec. 58. White and colored children shall not be taught in the same schools, but impartial provision shall be made for both races. Three white trustees shall in all cases be elected, or appointed, for the management and control of the schools of the district; and three colored trustees shall be elected, or appointed, in any school district for the colored schools therein, upon the written application of ten colored residents of said district, having one or more children within the scholastic age, to the county superintendent one month before any annual election in said district for school trustees, which colored trustees shall manage the colored schools, under the direction of the trustees of the district. In case there are not enough colored children in any school district, as laid off, then two or more of said districts may be consolidated by the trustees for the benefit of the colored school, and each of the districts shall pay pro rata, according to colored scholastic census in each, from the district school fund for its support, and shall be governed by the trustees of the district in which the school is taught.

Sec. 59. The scholastic census shall be taken by the district trustees, or one of them, under the supervision of the county superintendent, of all children in their district between the ages of eight and seventeen years, giving name, age, color, sex, and the name of the parent or guardian, as may be directed by the State Superintendent of Public Instruction, and return the said list to the county superintendent by the first Monday in June in each year, and the trustees so taking said census shall be paid five

cents per capita out of the school fund of their respective districts. The trustees are hereby authorized and empowered to administer all oaths necessary to obtain a full, complete and correct census of all children residing in their respective districts; and said trustees may require each parent, guardian, or other person having in charge any child or children, to answer, under oath, as to the names and ages of such child or children, and any person refusing to answer such questions, under oath, shall be guilty of a misdemeanor, and on conviction thereof shall be fined not less than five nor more than twenty-five dollars. The county superintendent shall, by the first Monday in July thereafter, aggregate the whole number of children in the county, and make an abstract in duplicate thereof, one to be filed with the county clerk, and the other to be forwarded by him to the State Superintendent. Said census rolls shall be sworn to by the trustees taking the census, and said abstracts by the county superintendent, before any officer authorized to administer oaths.

Sec. 60. There shall be in each organized county of this State a county board of examiners. Said board shall be composed of three members, to be appointed by the county superintendent: Provided, that in counties having no county superintendent the county judge shall appoint a county board of examiners. The persons so appointed shall be teachers residing in the county for which they are appointed, holding first grade county certificates, or certificates of some higher rank, which certificates shall be valid in the county for which said persons are appointed at the time of appointment: Provided, that if the services of such persons can not be secured the superintendent may appoint other qualified persons residing in the county for which they are appointed. The members of the county board of examiners shall serve during the pleasure of the county superintendent of the county for which they are appointed. Said board of examiners shall meet at the call of the county superintendent, and the presence of all the members of the board shall be necessary to the transaction of business. If at any meeting of the board any member thereof is absent, the county superintendent shall appoint some other person, possessing the qualifications hereinbefore mentioned, to supply the place of the absent member, either temporarily or permanently, as he may deem proper.

Sec. 61. Any person desiring to be examined for a county certificate shall make application to the county superintendent, stating the class of certificate desired, and shall present him a certificate of three good and well known citizens, or such proof as he may require, of all the qualifications, except the examination grades, required for the class of certificate desired. After investigation, the county superintendent shall give the applicant a written recommendation to the board of examiners, requiring them to examine the applicant for a certificate of such class, if any, as they may find the applicant entitled to upon making the necessary examination grades. But no person shall receive such recommendation without first depositing with the county superintendent the sum of three dollars as an examination fee, and the recommendation given by the superintendent shall show the receipt of the examination fee. The board of examiners shall in no case permit any person to enter upon the examination without first presenting the written recommendation of the county superintendent.

Sec. 62. No person shall receive a certificate of any class without first

showing to the satisfaction of the county superintendent that he is a person of good moral character, and his ability to speak and understand the English language sufficiently to use it easily and readily in conversation, and in giving instruction in all branches prescribed for the class of certificate for which he applies. The county superintendent, unless he knows the fact personally, shall require satisfactory proof of the applicant that he has ability to use the English language as above provided, before issuing his recommendation to the board of examiners, and the examiners shall also consider it as an element in determining his grades upon the branches upon which he is examined.

Sec. 63. Teachers' certificates authorizing the holders thereof to contract and teach in the public free schools of this State shall be of three kinds, as follows:

A county certificate to be valid only in the county in which it is issued.

A city certificate to be valid only in the city in which it is issued.

A State certificate, to be valid in all the counties and independent districts of the State. All valid teachers' certificates now in force shall be good for the time for which they were issued.

Sec. 64. County certificates shall be of four classes, as follows:

A third grade certificate.

A second grade certificate.

A first grade certificate.

A permanent certificate.

County certificates shall be issued by the county superintendent of public instruction upon the recommendation of the county board of examiners hereinbefore provided; and the county superintendent shall keep a record of all certificates issued by himself and of other certificates held by persons teaching in the public free schools of his county, who shall present such certificates for record before their contracts shall be approved, which record shall show the name, age, sex, and color of the holder of each certificate, and the kind and class of the certificate, the length of time for which it is valid, and by whom issued.

Sec. 65. The county board of examiners of each county shall, if necessary, hold an examination on the third Friday and the Saturday following of each month of the year, except January, March, May, and July.

(a) Said board of examiners shall use the questions prescribed by the State Superintendent of Public Instruction, and shall conduct the examinations in accordance with the rules and regulations prescribed by the county superintendent and State Superintendent of Public Instruction.

(b) An applicant for a third grade certificate shall be examined in spelling, writing, arithmetic, English grammar, geography, Texas history, elementary physiology and hygiene and the laws of health, with special reference to narcotics, and school management and methods of teaching. A third grade certificate shall be valid for one year from the date of issue, and to receive such certificate the applicant shall, upon examination, make on the prescribed subjects an average grade of not less than seventy, and on each prescribed subject a grade of not less than fifty: Provided that a third grade certificate shall not in any case be good except in the county where issued.

(c) An applicant for a second grade certificate shall be examined in the subjects prescribed for a third grade certificate, and, in addition

thereto, in United States history, elementary principles of civil government, English composition, physiology and hygiene, and physical geography. A second grade certificate shall be valid for two years from the date of issue, and to receive such certificate the applicant shall, upon examination, make on the prescribed subjects an average grade of not less than seventy-five, and on each subject of not less than fifty: Provided, that if the applicant make a general average on the prescribed subjects of eighty-five, and on each subject a grade of not less than fifty, the certificate shall be valid for four years.

(d) An applicant for a first grade certificate shall be examined in the subjects prescribed for third and second grade certificates, and, in addition thereto, in physics, algebra, elements of geometry, the Constitution of the United States and the State of Texas, and elements of mental and moral science, and the effects of tobacco and alcoholic intoxicants upon the human system. A first grade certificate shall be valid for four years: Provided, if the holder thereof shall withdraw from school work for a period of two years or longer, such certificate shall become void; and to receive such certificate the applicant, upon examination, shall make upon the prescribed subjects an average grade of not less than eighty-five, and on each subject a grade of not less than fifty: Provided, that a first grade certificate shall be valid for two years if the applicant makes a grade of not less than fifty on any subject, and a general average of seventy-five.

Sec. 66. An applicant for a permanent certificate shall be examined upon the branches prescribed for third, second, and first grade certificates, and in addition thereto, in the history of education, psychology, English and American literature, chemistry, solid geometry, plane trigonometry, and elementary double entry bookkeeping. A permanent certificate shall be valid during good behavior of the holder: Provided, that if any person holding a permanent certificate shall withdraw from the school work for a period of three years, or longer, such certificate shall become void, and it shall be the duty of the county superintendent to cancel the same upon his record. To receive a permanent certificate the applicant shall be a teacher of not less than three years successful experience in the schools of Texas, and, upon examination, shall make upon the prescribed subjects an average grade of not less than eighty-five, and on each prescribed subject a grade of not less than sixty. The county superintendent or county judge may, upon the petition of the local board of trustees of any school district or community, issue local permanent teachers' certificate to any teacher who has rendered eminent service as a teacher in said school or county for a continuous period of five years, the said local permanent certificate to be of the same grade and class as that held by the said teacher during the five years of such service, and to be valid only in the school or county where such service has been rendered during the continuous employment of said teacher in said school or county. The county superintendent or county judge shall require certificates from a sufficient number of credible witnesses to establish beyond question the requirements for said certificate. The State Superintendent shall prepare questions for permanent certificates for at least two examinations each year.

(a) The board of examiners shall grade the papers of the applicants on the basis of one hundred credits for a perfect paper, and endorse on each paper in ink the number of credits allowed on each answer, and the

average on the paper, and shall make to the county superintendent a separate report, under oath, on the examination of each applicant, which shall show the names of the members of the board conducting the examination, and the number of credits allowed on each subject, and shall, if they believe that the applicant has fairly observed the rules prescribed for the examination, and if the applicant has made the grades and average required, recommend that he shall receive a certificate of such class, if any, as he may be entitled to, and shall deposit his papers with the county superintendent.

(b) The county superintendent shall, upon the request of any applicant for second, first, or permanent certificate, made in writing before the adjournment of the board of examiners, forward to the State Superintendent, to be submitted to the State board of examiners hereinafter provided, such applicant's papers, and the report of the county board of examiners thereon, together with one dollar of the fee deposited with him: Provided, that this shall not in any manner interfere with the issuance of the proper county certificate to said applicant.

(c) The State board of examiners shall, at their next meeting after the receipt of said papers and report, together with said fee of one dollar, examine said papers and report thereon, and if they believe that the papers are fairly and accurately graded, they shall make a report to the State Superintendent and shall recommend that the county certificate issued upon said examination be made valid in all the counties of the State, and they shall notify said applicant of their action, who may forward his county certificate to the State Superintendent of Public Instruction, who may issue in lieu thereof another certificate of equal rank, valid in all the counties of the State, and the State Superintendent shall preserve a record of certificates thus issued by him.

Sec. 67. The county superintendent shall not act as a member of the county board of examiners. He shall collect the examination fees, and after paying out of the funds so received the expenses of the examination and making the necessary remittances, if any, to the State Superintendent for the State board of examiners, shall distribute the remainder among the members of the county board of examiners conducting the examination.

Sec. 68. An applicant who takes the examination for a certificate of any class and fails to pass, may receive a certificate of any lower rank to which the examination grades on the subjects prescribed for such certificate of lower rank may entitle him.

Sec. 69. Any person holding a second grade or first grade certificate may, within one year after the date of issue, receive in lieu thereof a certificate of the next higher class by taking the examination on the additional subjects prescribed for such higher class certificate: Provided, that such applicant's average grade on all subjects prescribed for such higher class certificate, as shown by both examinations, shall not be less than hereinbefore fixed, and the minimum grade on any subject shall not be less than that hereinbefore provided: And provided further, that said applicant shall possess all the other qualifications required by law for persons receiving such certificate of such higher grade.

Sec. 70. It shall be the duty of every teacher in the public free schools of this State to use the English language exclusively, and to conduct all recitations and school exercises exclusively in the English language:

Provided that this provision shall not prevent the teaching of any other language as a branch of study, but when any other language is so taught, the use of said language shall be limited to the recitations and exercises devoted to the teaching of said language as such branch of study.

Sec. 71. It shall be the duty of all teachers in the public schools in this State to attend the summer normals and county institutes as far as possible.

Sec. 72. Teachers shall keep daily registers, in which the names, ages, and studies of the pupils, and their attendance, shall be recorded, and such other matters as may be prescribed by the State Superintendent. Said registers shall be open to the inspection of all parents, school officers, and other persons who may be interested to examine the same.

(a) All teachers shall make monthly reports of such subjects as may be designated by the State Superintendent or county superintendent, to be approved by a majority of the trustees of the district, and shall file same with the county superintendent when they present their vouchers for their month's salaries.

(b) They shall make such reports at the end of the school term as may be prescribed by the State Superintendent, and until such term reports are made the trustees shall not approve vouchers for last month's salaries, nor shall county treasurers pay the same. All monthly and term reports shall be made under oath, and county superintendents are hereby empowered to administer oaths for such purposes. County superintendents and county judges shall receive no compensation for administering oaths necessary in transacting any business relating to school affairs.

Sec. 73. A city or town which has five hundred scholastic population or more, and has become an independent school district, and which levies a local tax for educational purposes, or maintains a system of free schools for nine months each year, and which has employed a superintendent of city schools, may have a city board of examiners. Said board of examiners shall in all cases consist of a city superintendent of the city schools, together with two other persons, who shall be appointed by him, and who shall be teachers, and the superintendent shall not be subject to examination. The city board of examiners are hereby authorized to issue certificates valid only in the city in which they are issued. Such certificates shall be of two kinds, as follows:

A temporary certificate.

A permanent certificate.

Temporary and permanent certificates shall be of three classes for each kind, as follows:

Primary teacher's certificate.

Intermediate teacher's certificate.

High school teacher's certificate.

A temporary certificate shall be good for any period not exceeding four years, to be determined by the board of trustees of such city or town. A permanent certificate shall be good during good behavior, and shall not be issued to any person who has not been engaged successfully in teaching in the schools of Texas for a period of at least three years. A teacher holding a primary teacher's certificate may teach in the primary school or primary grades. A teacher holding an intermediate teacher's certificate may teach in the intermediate school or intermediate grades. A teacher holding a high school teacher's certificate may teach in the high

school or high school grades. The further regulation of the issuance of such certificates shall be provided for by the boards of trustees of such cities or towns: Provided, that no city or town shall make the requirements for its temporary primary or temporary intermediate certificates inferior to the requirements prescribed by law for second grade county certificates, or the requirements for its temporary high school certificates less than those prescribed by law for first grade county certificates, or the requirements for its permanent certificates less than those prescribed by law for permanent county certificates. Nothing in this act shall interfere with the validity of outstanding certificates in such cities and towns, or prevent the extension of such certificates for a period not to exceed four years. Cities and towns authorized by the provisions of this act to have a city board of examiners, may, at the discretion of the superintendent of the city schools, employ a teacher of any special branch not included in the requirements for a State certificate, without requiring an examination or a teacher's certificate; and nothing in this act shall prevent the board of trustees of any such city or town from recognizing the certificates issued in any other such city or town in this State, and validating the same in the city or town so recognizing them.

Sec. 74. The State Superintendent of Public Instruction shall be authorized to appoint a State board of examiners, consisting of not less than three competent teachers, living in the State, to serve during his pleasure, and he may increase or decrease the number, as varying conditions may make necessary.

Sec. 75. Teachers holding a diploma from a Texas State normal school, or from the Peabody Normal School at Nashville, Tennessee, or the North Texas Normal College of Denton, Texas, or Coronal Institute at San Marcos, Texas, may teach in the public schools of this State during good behavior, and such diplomas shall rank as permanent State certificates; and such teachers shall not be subject to examination by any board of examiners: Provided, that the State board of education, together with the State Superintendent of Public Instruction, shall prescribe the course of study which teachers shall complete in the North Texas Normal College and Coronal Institute, before their diplomas from the same shall have the force of life certificates, and that the said board and State Superintendent shall further prescribe a course of study for the said schools, the completion of which shall entitle the person so completing the same to a first grade State certificate: Provided further, that the State board of education, or the State Superintendent of Public Instruction, in order to enforce their requirements as to course of study, methods, and discipline, shall have the authority to visit the said schools, and to inspect the character of work, methods of instruction, and discipline, and to hold examinations of persons applying for diplomas or certificates from said schools. A teacher holding a first grade certificate from a Texas State normal school may teach in the public schools in this State for four years after issuance, and a teacher holding a second grade certificate from such an institution may teach in the public schools of the State for two years, and shall not be subject to examination by any board of examiners. A teacher holding a Texas summer normal certificate may teach anywhere in the State for four years, and shall not be subject to examination by any board of examiners. The State Superintendent shall prescribe regulations for the holding of summer normal institutes, and prescribe rules for granting

summer, normal and permanent certificates, which shall be State certificates.

Sec. 76. University diplomas and certificates given by the University of Texas to students of the school of pedagogy, shall have the force and effect of State certificates, as follows:

(a) Diplomas conferred by the regents of the University of Texas on students completing some degree course, and also the degree course of the school of pedagogy, shall have the force of permanent State certificates.

(b) Certificates issued by the school of pedagogy to students completing the advanced course, or the special professional course, or the graduate course, shall have the force of first grade State certificates for four years.

(c) Certificates issued by the school of pedagogy to students completing the junior course shall have the force of State certificates of the first grade for a period of two years.

Sec. 77. Any teacher who may hold a diploma conferring on him the degree of bachelor of arts, bachelor of science, bachelor of letters, or any higher academic degree, from any college or university of the first class, and who shall have taught for a period of not less than three years in Texas, may receive from the State Superintendent of Public Instruction a permanent State certificate, which shall be valid anywhere in this State during good behavior. The institutions to be recognized as colleges or universities of the first class shall be determined by the State Superintendent of Public Instruction, upon the recommendation of the State board of examiners.

Sec. 78. All examinations authorized under this act shall be conducted in the English language and in writing, and no applicant shall receive a certificate unless the board of examiners be satisfied that he is competent to teach the branches prescribed for the grade of certificate applied for, in the English language. All examinations for white and colored teachers shall be conducted in separate rooms or buildings. Any certificate may be cancelled for good cause by the authority issuing it, and the State Superintendent of Public Instruction shall have power to cancel any certificate upon satisfactory evidence that the holder thereof is conducting his school in violation of the laws of the State: Provided, that before any certificate shall be cancelled the holder thereof shall be notified, and shall have an opportunity to be heard, and he shall have the right of appeal from such decision to the State Superintendent, and to the State board of education: Provided, that when the State Superintendent shall have cancelled the certificate, the appeal shall be to the State board of education.

Sec. 79. Any teacher desiring to teach in any city, town, or district in this State, shall, before contracting with any board of trustees, or with any city school board, exhibit a teacher's certificate, valid in the city, town, or school district; and any teacher who shall teach in any public school in this State without having a valid certificate, shall not receive from the free school funds any compensation for such service.

Sec. 80. Any person who shall unlawfully and willfully raise, change, or alter any teacher's certificate or diploma, or other instrument having the force of a teacher's certificate, shall be deemed guilty of forgery, and upon conviction thereof shall be punished by confinement in the penitentiary for a term of not less than two nor more than seven years.

Sec. 81. When a school district has no school house, or not a sufficient number, or when the school houses are in need of repairs or furniture, the trustees may contract for the building or repairing of a school house or school houses, or the purchase of furniture, and may use for such purposes not more than twenty-five per cent annually of the school fund of the district for a period of five years: Provided, that where a house is to be erected, the citizens of the district must contribute of their labor or means, or both, an amount equal to one-third of the school fund to be so used, and a suitable piece of land shall be donated as a site, and a deed therefor shall be executed and delivered, conveying a good and sufficient title in fee simple in and to such land, to the county judge and his successors in office, in trust for public free school purposes, which deed must be recorded as other deeds: And provided further, that districts which have taxed or may hereafter tax themselves, may be allowed to use the money raised by such taxation for the purpose of purchasing, repairing, enlarging, erecting or furnishing school buildings, or to purchase building sites, but the title to all real estate so purchased shall be taken and recorded as hereinabove provided.

Sec. 82. The trustees of the district must make application to the county superintendent for any appropriation for the purposes named in the preceding section before making any contract with any teacher for the year in which such appropriation is desired, which application shall be accompanied with plans and specifications of the house or houses sought to be erected, with a statement of the estimated cost, or in case of desired repairs or furniture, a detailed statement of the repairs or furniture desired, together with an estimate of the cost of the same.

Sec. 83. After receipt of such application the county superintendent, if it appears to his satisfaction that the house to be erected is necessary and adapted to the needs of the pupils of the district or that the repairs or furniture desired is necessary, and that the requirements of law have been complied with, shall make an order appropriating such amount to the school fund to the credit of such district for each year as he may deem expedient, necessary, and proper for the purposes specified in such application; but in making any such appropriation for a district, the scholastic interests of the district as a whole shall be considered; and no part of such appropriation shall be drawn from the treasury or paid until the completion of the building or repairs according to contract, plans, and specifications, or in case of furniture, until the delivery thereof, according to such contract as the trustees may have made, and then only upon the warrant of the county superintendent.

Sec. 84. The trustees of such school district shall contract for the erection of such building and superintend the construction of the same, and the county superintendent shall draw his warrant or warrants upon the school fund so appropriated only upon the accounts first approved by them.

Sec. 85. No mechanic, contractor, material man, or other person can contract for or in any other manner have or acquire any lien upon the house so erected or the land upon which the same is situated, and all contracts with such parties shall expressly stipulate for a waiver of such lien.

Sec. 86. So much of the available school fund of any school district for any one year, not to exceed twenty-five per cent of said fund, as the county superintendent may deem expedient, necessary, and proper, may

be used in the purchase of suitable school property, upon the terms and conditions hereinbefore specified.

Sec. 87. The trustees of any school district, upon the order of the commissioners court, prescribing the terms thereof, when deemed advisable, may make sale of any property belonging to said school district, and apply the proceeds to the purchase of necessary grounds or to the building or repairing of school houses, or place the proceeds to the credit of the available school fund of the district.

Sec. 88. The trustees of any school district not having a school house may rent or lease a suitable house instead of building or purchasing one, if deemed advisable by them. The rent shall be paid by the county treasurer out of the available school fund of the district, upon the warrant of the trustees, approved by the county superintendent.

Sec. 89. All school houses erected, grounds purchased or leased for a school district, and all other property belonging thereto, shall be under the control of the district trustees of such district.

Sec. 90. A school house constructed in part by voluntary subscriptions by colored parents or guardians, and for a school for colored children, shall not be used for white children without the consent of the trustees of the district, and a like rule shall protect the use of school houses erected in part by voluntary subscription of white parents or guardians for the benefit of white children.

Sec. 91. In taking the scholastic census, every child that will be of scholastic age at the beginning of the next school year shall be enrolled and enumerated in the district in which it resides at the time of its enumeration.

Sec. 92. Any child lawfully enrolled in any district or independent district may be transferred to the enrollment of any other district or independent district in the same county, upon the written application of the parent or guardian or person having the lawful control of such child, filed with the county superintendent, at any time before the apportionment of the school fund by the county superintendent or county judge of any scholastic year, but not afterwards; and no child shall be transferred more than once. Upon the transfer of any child its portion of the school fund shall follow and be paid over to the district or independent district to which such child is transferred: Provided, no transfers shall be made after the trustees have employed a teacher.

Sec. 93. Except as herein provided, no part of the school fund apportioned to any district or county shall be transferred to any other district or county: Provided, that districts lying in two or more counties, and situated on the county line, may be consolidated for the support of one or more schools in such consolidated district; and in such case the school funds shall be transferred to the county in which the principal school building for such consolidated district is located: And provided further, that all children residing in a school district may be transferred to another district, or to an independent district, upon such terms as may be agreed upon by the trustees of said districts interested.

Sec. 94. Every child in this State of scholastic age shall be permitted to attend the public free schools of the district or independent district in which it resides at the time it applies for admission, notwithstanding that it may have been enumerated elsewhere, or may have attended school elsewhere part of the year: Provided, that white children shall not attend

the schools supported for colored children, nor shall colored children attend the schools supported for white children: Provided, that the following counties shall be and the same are hereby exempted from the district system provided in this act, to-wit: Freestone, Limestone, Robertson, Van Zandt, Smith, Montgomery, Trinity, Cass, Bowie, Bosque, Lee, Burleson, Washington, Bastrop, Cameron, Hidalgo, Nacogdoches, Panola, Rusk, Brazoria, Matagorda, Wharton, Raines, Shackelford, Callahan, Guadalupe, and Angelina: Provided, that any county exempted from the district system may be transferred from the community system to the district system by the commissioners court of said county passing an order to that effect, and in such case it shall be the duty of the county clerk to notify the State Superintendent of Public Instruction of such action; and nothing herein contained shall be construed to repeal any of the laws now in force as to said counties for the government of schools in counties under the community system, but said laws are hereby expressly continued in full force and operation in the counties above specified.

Sec. 95. All laws and parts of laws in conflict with this act are hereby repealed.

Sec. 96. The inharmonious and conflicting provisions of the present school law, and the near approach of the close of the present session, and the crowded condition of the calendar, create an emergency and an imperative public necessity authorizing the suspension of the constitutional rule requiring bills to be read on three several days, and it is so suspended; and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved May 20, A. D. 1893.

CERTIFICATE.

THE STATE OF TEXAS,
Department of State.

I, Geo. W. Smith, Secretary of State of the State of Texas, certify that the foregoing laws and resolutions, passed at the regular session of the Twenty-third Legislature, have been carefully examined and compared with the original enrolled bills now on file in this department, and are true copies of said originals.

I further certify that the Twenty-third Legislature convened in the city of Austin January 10, A. D. 1893, and adjourned May 9, A. D. 1893.

In testimony whereof, I have subscribed my name and
[SEAL] have hereto affixed the seal of the State of Texas, in the city of Austin, this June 3, A. D. 1893.

GEO. W. SMITH,
Secretary of State.

RESOLUTIONS.

CONCURRENT RESOLUTION.

(Leave of absence to Judge L. W. Goodrich.)

House Concurrent resolution No. 9.

Whereas, the Hon L. W. Goodrich, district judge of the nineteenth district, desires to leave the State on or about the first day of February, on important and private business: Therefore be it

Resolved by the House of Representatives, the Senate concurring: That the said Hon. L. W. Goodrich, district judge of the nineteenth district of Texas, be and the same is allowed to leave the State for a period of thirty days, from 1st of February until 1st of March, 1893.

[Note.—The foregoing concurrent resolution was presented to the Governor of Texas for his approval on the 2d day of February, A. D. 1893, but was not signed by him, nor returned to the house in which it originated, with his objections thereto, within the time prescribed by the constitution, and thereupon became a law without his signature. Geo. W. Smith, Secretary of State.]

CONCURRENT RESOLUTION.

(Chicamauga and Chattanooga Commissioners.)

Whereas, Congress has purchased the battle field of Chicamauga, and established the Chicamauga and Chattanooga military park; and

Whereas the States of Georgia and Tennessee have ceded the roads through the field and over Lookout Mountain, and along the crest of Missionary Ridge, as approaches to and a part of said park; and

Whereas, a commission appointed by the Secretary of War is now engaged in locating both the Union and Confederate lines of battle: Therefore be it

Resolved, that the House of Representatives, the Senate concurring, hereby authorize and empower the Governor of this State to appoint a commission of five gentlemen, each of whom participated in the battle of Chicamauga or Chattanooga, who shall serve without pay, and whose duty it shall be to co-operate with the national commission in ascertaining and marking the positions occupied in these battles by each regiment, battery, and independent organization from this State, who were engaged there; and for this purpose they shall avail themselves of the knowledge and assistance of representatives of such regiments, batteries, and other organizations.

Approved March 29, A. D. 1893.

JOINT RESOLUTION.

(To amend sec. 51, art 3, State Constitution.)

[H. J. R. No. 4].—Joint resolution proposing to amend section 51, article 3 of the Constitution of the State of Texas, authorizing the establishment and maintenance of a home for indigent and disabled Confederate soldiers and sailors.

Section 1. Be it resolved by the Legislature of the State of Texas. That section 51, article 3, of the Constitution of the State of Texas, be amended so as to read as follows:

Section 51. The Legislature shall have no power to make any grant, or authorize the making of any grant of public money to any individual, association of individuals, municipal or other corporation whatsoever: Provided, however, the Legislature may grant aid to the establishment and maintenance of a home for indigent and disabled Confederate soldiers or sailors who are or may be bona fide residents of the State of Texas, under such regulations and limitations as may be provided by law: Provided, that such grant shall not exceed the sum of \$100,000 for any one year: And provided further, that the provisions of this section shall not be construed so as to prevent the grant of aid in case of public calamity.

Sec. 2. This resolution shall be submitted by the Governor to a vote of the qualified electors for members of the Legislature of the State of Texas at the next general election, to be held on Tuesday after the first Monday in November, 1894, at which election all voters favoring said proposed amendment shall have written or printed on their ballots the words, "For the amendment to section 51, article 3, of the Constitution of the State of Texas," and all those opposed to the amendment shall have written or printed on their ballots the words, "Against the amendment to section 51, article 3, of the Constitution of the State of Texas."

Sec. 3. Immediately after the election the officers of each precinct shall forward to the county judge of their county a duplicate return, showing the number of votes cast for and against the amendment, and on the following Monday the county judge shall open and count said returns, and forthwith forward to the Secretary of State, in a sealed package, a tabulated statement thereof, showing the total number of votes cast in the county for and against the amendment; and on the fortieth day after said election the Secretary of State shall, in the presence of the Governor and Attorney-General, open and count said returns; and if it shall appear from the returns that a majority of the votes were cast for said amendment, it shall be the duty of the Governor, on the following day, or as soon thereafter as practicable, to issue his proclamation setting forth the fact that said amendment has received a majority of all the votes cast upon that question at said election, and shall proclaim that said amendment has become and is a part of the Constitution of the State of Texas, and the amendment shall take effect from and after said publication.

Approved April 8, A. D. 1893.

CONCURRENT RESOLUTION.

(Acceptance of donation State Encampment Grounds.)

[S. C. R. No. 9.]—Senate concurrent resolution. Concurrent resolution accepting the donation of the citizens of Austin of ninety-one acres of land, situated in Travis county, with improvements thereon, known and designated as "Camp Mabry," for use as the place for holding the annual encampments of the militia of this State; and returning thanks for same.

Whereas, the citizens of the city of Austin, Texas, have, by private subscription, purchased a suitable tract of land, and at their own expense have erected thereon all improvements necessary for the comfort and use of the volunteers of this State at their annual encampments; and

Whereas, the said citizens, through John L. Peeler, trustee, have donated said tract of land and improvements thereon, known and designated as "Camp Mabry," to the State for the use of her volunteers.

Section 1. Therefore be it resolved by the Legislature of the State of Texas: That James S. Hogg, Governor, be and he is hereby authorized to accept the deeds from said John L. Peeler, trustee, conveying to the State the title to the land indicated.

Sec. 2. That the Legislature of the State of Texas hereby tenders its thanks to Messrs. H. E. Shelley, J. J. Tobin, John Orr, W. H. Tobin, Frank Maddox, T. J. Hume, A. C. Goeth, J. M. Day, A. S. Roberts, and others, the gentlemen who, by the expenditure of their own time and labor, were largely instrumental in inducing the generous citizens of Austin to bestow this munificent gift upon the volunteers of the State.

Approved May 1, A. D. 1893.

CONCURRENT RESOLUTION.

(Relative to navigation of Trinity river.)

[S. C. R. No. 18.] Concurrent resolution. Concurrent resolution requesting the Senators and Representatives of Texas in Congress to secure an appropriation to open up the Trinity river for permanent navigation.

Whereas, freight and transportation charges on all incoming and outgoing staple commodities in Texas about equal the first cost of the same at the place of production; and

Whereas, the United States government has now under construction, at heavy cost, several harbors on the Gulf coast of Texas, and to realize the full benefit of these expenditures of millions of dollars on the Texas coast, it is necessary to secure cheap transportation from the interior to these ports, and from these ports to the interior; and

Whereas, experience has taught us that for years to come this can not be obtained from the railroads alone, and that Texas has large rivers running through the State, from the interior to the Gulf, that might be made navigable for cheap transportation by the expenditure of reasonable sums of money by the general government; and

Whereas it is known that the Trinity river is a navigable stream, and that in 1873 as many as seventeen steamers were running on its waters.

coming within thirty miles of Dallas, and that as late as 1868 one landed at the foot of Main street, in Dallas; and

Whereas, the people along said river, appreciating the fact that the same is navigable, and anxious to develop the same, are now spending one hundred thousand dollars in cleaning out snags and drifts and removing overhanging timber; and

Whereas, it has been the policy of the United States government to improve the waterways of the land and thus afford cheap transportation to the people; and

Whereas, the improvement of the Trinity river so as to secure navigation for the entire year will save millions of dollars to the people of Texas: Therefore,

Be it resolved by the Senate, the House of Representatives concurring: That our senators and representatives in Congress be respectfully and earnestly requested, as speedily as possible, to secure an appropriation sufficient to open the Trinity river for permanent navigation.

Approved May 11, A. D. 1893.

CONCURRENT RESOLUTION.

(Relative to improvement of Capitol Grounds.)

A concurrent resolution to refer back to the board to advertise for, receive, adopt, and reject plans and specifications for the improvement of the Capitol grounds, with power and instructions to adopt or reject any and all of such plans and specifications, and to return such as may be rejected back to the owner thereof.

Whereas, the Twenty-second Legislature constituted the Governor, Attorney-General, and Superintendent of Public Buildings and Grounds a board for the purpose of advertising for plans and specifications and an estimate of cost for improving the Capitol grounds, and appropriated the sum of two thousand dollars for the payment of such plans and specifications that should be adopted by said board or by the Legislature; and

Whereas, in response to the advertisement of said board, certain plans and specifications were prepared by competing architects and submitted to said board, and through said board to the Legislature; and

Whereas, neither said board nor the Legislature has adopted any of said plans and specifications: Therefore

Be it resolved by the Legislature of the State of Texas: That the said plans and specification and estimates be and the same are hereby referred back to the board, with the power and instruction to adopt such of the plans and specifications as may be deemed by said board suitable and proper, and in case none of the plans and specifications are deemed suitable and proper, to reject all of them, and to turn over all such plans and specifications as may be rejected by said board to the owners thereof.

Approved May 11, A. D. 1893.

SENATE JOINT RESOLUTION.

[S. J. R. No. 8.] Senate joint resolution to amend section 30, article 16, of the Constitution of the State of Texas.

Section 1. Be it resolved by the Legislature of the State of Texas: That section 30, article 16, of the Constitution of the State of Texas, be amended so that it shall hereafter read as follows:

Section 30. The duration of all offices not fixed by this Constitution shall never exceed two years: Provided, that when a railroad commission is created by law it shall be composed of three commissioners, who shall be elected by the people at a general election for State officers, and their terms of office shall be six years: Provided, railroad commissioners first elected after this amendment goes into effect shall hold office as follows: One shall serve two years, and one four years, and one six years, their terms to be decided by lot, immediately after they shall have qualified. And one railroad commissioner shall be elected every two years thereafter. In case of vacancy in said office, the Governor of the State shall fill said vacancy by appointment until the next general election.

Sec. 2. The foregoing amendment shall be submitted to the qualified voters of the State at the next general election. Those favoring its adoption shall have written or printed on their ballots the words, "For election of railroad commissioners," and those opposed to its adoption shall have written or printed on their ballots the words, "Against election of railroad commissioners." And the Governor of the State is hereby directed to issue the necessary proclamation for such election, and have the same published as required by the Constitution and existing laws of the State.

Approved May 11, A. D. 1893.

SENATE JOINT RESOLUTION.

(Relative to navigation of Colorado River.)

[S. J. R. No. 14.] Joint Resolution.

Whereas, the Colorado river, one of the most important streams in Texas, and which is susceptible of being made navigable, is obstructed at its mouth by a great mass of raft wood and debris; and

Whereas, the opening of the mouth of said river is a matter of national importance and of particular interest and benefit to the State of Texas: Therefore be it

Resolved by the Legislature of the State of Texas: 1st. That our Senators and Representatives in Congress be requested to urge upon the Congress of the United States the necessity of an appropriation from the United States government to remove the obstructions to navigation above mentioned.

2d. That the President of the Senate and Speaker of the House of Representatives be requested to have a certified copy of these resolutions furnished our Senators and Representatives in Congress.

Approved May 11, A. D. 1893.

THE STATE OF TEXAS,
Department of State.

I, Geo. W. Smith, Secretary of State of the State of Texas, certify that the foregoing laws and resolutions, passed at the regular session of the Twenty-third Legislature, have been carefully examined and compared with the original enrolled bills, now on file in this department, and are true copies of said originals.

I further certify that the Twenty-third Legislature convened in the city of Austin January 10, A. D. 1893, and adjourned May 9, A. D. 1893.

In testimony whereof, I have subscribed my name and
[Seal] have hereto affixed the seal of the State of Texas, in the city of Austin, this June 3, A. D. 1893.

GEO. W. SMITH,
Secretary of State.

List of Bills with Emergency Clause, showing when they take effect.

Ch.	Bill.	Takes effect.	Ch.	Bill.	Takes effect
1	S. B. No. 1	From approval.	59	S. B. No. 274	From approval.
2	S. B. No. 2	Do.	60	S. B. No. 134	Do.
3	H. B. No. 15	Do.	*61	H. B. No. 635	Ninety days.
*4	S. B. No. 9	Ninety days.	*62	H. B. No. 657	Do.
*6	S. B. No. 7	Do.	63	H. B. No. 213	From approval.
9	S. B. No. 27	From approval.	65	H. B. No. 681	Do.
10	H. B. No. 508	Do.	*69	S. S. B. No. 25	Ninety days.
11	H. B. No. 5	Do.	70	H. B. No. 405	From approval.
12	S. B. No. 131	Do.	†71	H. B. No. 647	April 29, 1893.
13	S. B. No. 63	Do.	*72	H. B. No. 682	Ninety days.
†14	S. B. No. 16	March 4, 1893.	*73	S. B. No. 243	Do.
16	S. B. No. 107	From approval.	*75	S. B. No. 191	Do.
17	S. B. No. 129	Do.	76	S. S. B. No. 168	From approval.
*18	H. B. No. 109	Ninety days.	*77	S. B. No. 186	Ninety days.
19	S. B. No. 150	From approval.	78	S. B. No. 241	From approval.
20	H. B. No. 101	Do.	*79	S. B. No. 231	Ninety days.
21	H. B. No. 416	Do.	†80	H. B. No. 529	May 1, 1893.
22	H. B. No. 591	Do.	*81	S. B. No. 157	Ninety days.
23	H. B. No. 549	Do.	*82	H. B. No. 351	Do.
24	H. B. No. 279	Do.	*83	S. B. No. 292	Do.
25	H. B. No. 564	Do.	*84	H. B. No. 458	Do.
27	H. B. No. 446	Do.	*86	H. B. No. 577	Do.
28	S. B. No. 103	Do.	*87	H. B. No. 705	Do.
29	S. H. B. No. 161	Do.	88	H. B. No. 708	From approval.
*30	S. H. B. No. 67	Ninety days.	89	H. B. No. 579	Do.
*31	S. B. No. 130	Do.	*90	S. B. No. 259	Ninety days.
32	S. B. No. 88	From approval.	*91	S. B. No. 158	Do.
33	H. B. No. 14	Do.	92	H. B. No. 700	From approval.
34	H. B. No. 433	Do.	93	H. B. No. 701	Do.
35	H. B. No. 265	Do.	*95	S. B. No. 206	Ninety days.
36	H. B. No. 649	Do.	*96	S. S. B. No. 143	Do.
37	H. B. No. 441	Do.	98	S. H. B. No. 116	From approval.
39	H. B. No. 151	Do.	99	S. B. No. 297	Do.
*41	F. C. C. S. S. D. A.	Ninety days.	100	S. H. B. No. 703	Do.
	B. for S. H. D. A.		*101	H. B. No. 266	Ninety days.
	Bs. Nos. 90 & 240		*106	H. B. No. 707	Do.
43	S. B. No. 35	From approval.	107	H. B. No. 613	From approval.
*44	S. B. No. 248	Ninety Days.	*108	H. B. No. 276	Ninety days.
†46	S. H. B. No. 39		*109	H. B. No. 711	Do.
47	H. B. No. 44	From approval.	*111	H. B. No. 666	Do.
48	S. B. No. 270	Do.	*116	C. S. for S. S. Bs.	Do.
49	H. B. No. 598	Do.		Nos. 29, 36, 82,	
*50	S. H. B. No. 227	Ninety days.		126, 128	
*51	H. B. No. 594	Do.	*119	H. B. No. 360	Do.
*52	H. B. No. 590	Do.	*120	H. B. No. 318	Do.
53	H. B. No. 192	From approval.	*121	H. B. No. 91	Do.
55	H. B. No. 687	Do.	*122	S. H. Bs. Nos. 30,	Do.
57	S. B. No. 229	Do.		115, et al.	
58	S. B. No. 20	Do.			

*Passed, but failing to get two-thirds vote in Senate and House, does not go into effect until ninety days after adjournment of Legislature.

†Passed by two-thirds vote in Senate and House, and became a law without the Governor's signature.

‡See endorsements on bill.

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SPECIAL LAWS
OF
THE STATE OF TEXAS

PASSED AT THE
REGULAR SESSION OF THE TWENTY-THIRD LEGISLATURE

CONVENED
AT THE CITY OF AUSTIN

JANUARY 10, 1893, AND ADJOURNED MAY 9, 1893.



AUSTIN
1893

SPECIAL LAWS OF TEXAS.

TWENTY-THIRD LEGISLATURE, 1893.

WACO WATER POWER AND ELECTRIC COMPANY.

CHAP. 1.—[H. B. No. 171.] An act to grant to the Waco Water Power and Electric Company the right to construct and maintain, and by necessary booms or otherwise to protect, and from time to time to raise a dam across the Brazos river, and to purchase, condemn and pay for lands, rights, and other property overflowed or injured thereby or necessary therefor.

Be it enacted by the Legislature of the State of Texas: That for and in consideration of the improvement of the Brazos river for navigation above the dam hereinafter mentioned, and in further consideration of the many advantages which will result to the public from such dam.

Section 1. There is hereby granted to the Waco Water Power and Electric Company the right to construct, to maintain, by booms or otherwise to protect, and from time to time to raise a dam of not less than fifteen feet head of water across the Brazos river at any point within five miles above the suspension bridge at Waco, McLennan County, Texas: Provided, that said dam shall be completed within a period of five years from the approval of this act, and a failure to so complete the same shall operate as a forfeiture of the rights herein granted, and the same shall at once revert to the State: Provided further, that nothing herein shall be construed to relinquish the right of the State to fix and regulate the tolls and charges.

Sec. 2. In consideration of the great expense to be incurred by said company in constructing said dam, the water power thereby created is hereby granted to said company, its successors, and assigns.

Sec. 3. All the land and riparian rights of the State of Texas in and adjacent to said river, including especially such rights in its bed, banks, waters, and current at and so far above said dam as the same are influenced thereby, shall be used and enjoyed and occupied by said company, its successors, and assigns, so long as said dam is maintained by said company, its successors, and assigns: Provided, however, that the State reserves the right to construct or empower the construction of locks and other passways in said dam in such manner as not to injure said company, its successors, or assigns.

Sec. 4. There is hereby granted to said company the right, during the erection of said dam, or thereafter, to construct locks and other passways in said dam, and until such constructions said company shall maintain, over or around said dam, practical means of transporting boats and other craft which may navigate said river, said company being hereby granted the right to charge reasonable tolls to defray the expenses of constructing, maintaining, and operating the said locks, passways, and means of transportation.

Sec. 5. There is hereby granted to said company, its successors, and assigns, the right and power to purchase, acquire, or condemn all lands, rights, and other property subject to be overflowed by or needed in constructing, maintaining, protecting, or raising said dam: Provided, however, that this right of condemnation shall not be construed to entitle any person to damages who would not otherwise have been entitled thereto.

Sec. 6. The law as it now is, or may be amended, prescribing the rights of and procedure by railroad companies in acquiring land and making compensation therefor shall apply to and govern such proceedings in acquiring land, rights, and other property, and making compensation therefor, under the power herein granted said company, its successors, and assigns.

Sec. 7. The great benefits to be derived by the public from said dam, and the influence of the approaching seasons upon the height of the water in said river, causes an imperative public necessity and emergency for the suspension of the reading of this bill on three several days in each house, and the rule requiring such reading is hereby suspended, and this law shall take effect immediately after its passage.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 14th day of February, A. D. 1893, but was not signed by him nor returned to the house in which it originated, with his objections thereto, within the time prescribed by the Constitution, and thereupon became a law without his signature. Geo. W. Smith, Secretary of State.]

[Note.—The foregoing act takes effect February 25, 1893.] •

ROADS—CALDWELL COUNTY.

CHAP. 2.—[H. B. No. 109.] An act to create a more efficient road system in the county of Caldwell, and auxiliary thereto to provide for the appointment of road overseers; to define the powers and jurisdiction of the commissioners court with regard thereto; to utilize the labor of county convicts and defaulting poll tax payers on the public roads of said county; and to provide adequate penalties for the violation of the provisions of this act.

Section 1. Be it enacted by the Legislature of the State of Texas: That the commissioners court of Caldwell county may appoint a road overseer for each commissioners precinct in the county, or for each justice's precinct, who shall hold their offices for two years, and until their successors are qualified.

Sec. 2. The overseers appointed shall perform all the duties required of overseers under the general laws of this State, and such other duties as may be required of them by the commissioners court of said county, and shall receive such compensation as the commissioners court may prescribe, not to exceed two dollars per day for the time actually engaged.

Sec. 3. Each overseer shall, within twenty days after his appointment, take the constitutional oath, and enter into bond payable to the county judge, in such sum as may be fixed by the commissioners court, to be approved by the county judge, conditioned that he will well and faith-

fully discharge all of the duties incumbent upon him as such overseer; that he will promptly make all reports required of him by this act or by the commissioners court, and that he will correctly disburse and account for all funds that may come into his hands, according to law and the orders of the commissioners court, which bond shall not be void for want of form, or void on the first recovery, but may be sued upon until fully exhausted.

Sec. 4. The commissioners court may, for good cause, to be determined by themselves, at any time remove an overseer; and in case of vacancy from any cause, may fill the same for the unexpired term.

Sec. 5. Each overseer shall take charge of all tools, implements, teams, and supplies of any kind, placed under his control by the commissioners court, and execute his receipt therefor, which shall be filed with the county clerk; and he shall be responsible for all such tools, teams, implements, and supplies, and for the proper expenditure of all public moneys coming into his hands, and shall be liable for the loss, injury, or destruction of all such tools, teams, implements, and supplies if the result of his negligence, or for the wrongful or unauthorized expenditure of such money; and upon the expiration of his term, or in case of his resignation or removal, he shall deliver all such money and property to his successor, or to such person as the commissioners court may direct.

Sec. 5a. The overseer of each precinct shall subdivide his precinct into as many sections as may be necessary or convenient, and shall require each person subject to road duty in his precinct to work upon the roads in the particular section in which he resides; and in order to have all road work more promptly and vigorously prosecuted, the overseer may appoint suboverseers in the several sections of his precinct; but the overseer himself shall exercise at all times a supervision over the different sections and suboverseers, and shall plan and direct all work to be done; and may require the suboverseers to warn all road hands subject to duty of the time and place of working, as is required by existing laws.

Sec. 6. The commissioners court shall require all able bodied county convicts, not otherwise more profitably employed, to labor upon the public roads of the county, or upon the public streets of some city or town in the county, under such regulations as it may prescribe; and each convict so employed shall receive credit, first, upon the fine, and then upon the cost, of fifty cents per day for each day he may labor: Provided, that no convict shall be required to labor on Sunday, but shall, nevertheless, have the same credit as if he had labored on that day.

Sec. 7. The commissioners court may, at any regular term, allow to the officers and witnesses in a convict case, where the convict is worked upon the roads, such portion of their lawful cost as it may determine, not to exceed in any case the following: County judge, \$2.50; county attorney, \$5.00, including commissions; county clerk and justice of the peace, \$2.00; sheriff and constable, \$2.50; witnesses, twenty-five per cent of their legal fees, which allowances shall be paid out of the road and bridge fund on the warrant of the county judge, when said fine and cost shall have been worked out by the convict, as provided in this act. The commissioners court may provide the necessary houses, prisons, food, clothing, bedding, medicine, medical attention, and guards necessary for the safe keeping and humane treatment of such convicts, and may grant a reasonable commutation of time to a convict in consideration of faith-

ful service and good behavior, such commutation in no case to exceed one-tenth of the entire time.

Sec. 8. The overseers may contract with any person subject to road duty in their precinct for the use of wagons and teams, and permit such person to discharge his road service in the hire of such wagon and team: Provided, he shall not allow more than \$2.00 per day for any wagon and team, nor more than \$3.00 per day for wagon and team and driver.

Sec. 9. It shall be the duty of each overseer to see that all roads, bridges, culverts, and drains in his precinct are kept in good repair; to see that every person subject to road duty in his precinct performs the service for which he is liable under the law, or that such service is in some way excused or commuted as provided by law; to see that all mile posts and guide boards at the forks of the roads are kept continuously up and in order, and when the same are removed or defaced, to immediately repair or replace them. He shall act as supervisor of roads in his precinct, and perform all the duties as supervisor heretofore devolving upon the county commissioners; and the county commissioners of said county are hereby relieved from the duties prescribed by article 4390a of the Revised Civil Statutes.

Sec. 10. Every able bodied male person between the ages of twenty-one and forty-five years, resident in the county, except such persons as are exempt from road duty under the general laws of this State, shall be liable to labor on the public roads: Provided, that any one so liable may discharge said liability:

1. By furnishing a substitute who is acceptable to the overseer.
2. By paying to the overseer the sum of one dollar for each day he may be summoned to work, or by paying four dollars at any one time, shall be discharged from all liability for the entire year, to end on December 31 of each year.
3. By producing to the overseer the certificate of a reputable practicing physician, certifying that the party is permanently or temporarily incapacitated for such physical labor as is necessary for road service.
4. By substituting wagons and teams suitable and satisfactory to the road overseer, as provided in section 8 of this act.

Sec. 11. Every insolvent poll tax payer, being a resident of the county, who shall be indebted to the county on any unpaid county poll tax, and from whom the said poll tax can not be otherwise collected by law, shall be permitted to discharge the amount of such unpaid county poll tax in labor upon the public roads of his precinct at the rate of one dollar per day; and in order to enforce the provisions of this section, the collector of taxes for the county shall be required, on or before the second Monday in February of every year, to furnish to the several overseers of the county the names of all defaulting poll tax payers, together with the amount of county poll tax due and unpaid by each; for which ex officio service the collector shall be exempt from road duty. And it shall be the duty of the overseer, whenever any such person shall have discharged his county poll tax as herein provided, to report the same to the tax collector, who shall credit the party on the tax roll, and report the same in his regular reports to the commissioners court: Provided, that no fines or penalties shall be recovered of insolvent poll tax payers for failure to work out their poll tax under the provisions of this act.

Sec. 12. Each road overseer shall make his report, under oath, to the commissioners court, every six months, giving an itemized statement of all money belonging to the road fund which he has received, from whom received, and for what, and what disposition he has made of the same; the condition of all roads, bridges, culverts and drains; the numbers and character of all mile posts and guide boards erected, and where the same are located; and such other information as the commissioners court may require; and may accompany said report with such suggestions as may seem to him pertinent in regard to the public roads and the duties of his office.

Sec. 13. Any road overseer who shall willfully or negligently fail or refuse to comply with any provision of this act, or to perform any lawful and reasonable order of the commissioners court, or to discharge any duty imposed upon him by this act, or by any other existing law of the State not in conflict herewith, shall be deemed guilty of a misdemeanor, and on conviction thereof in a court of competent jurisdiction, shall be punished by fine of not less than ten nor more than one hundred dollars; such fine, when collected, to go into the road and bridge fund.

Sec. 14. Whenever it shall be necessary to occupy any private lands for the purpose of opening, widening, straightening, or draining any public road or part thereof, if the owner of such land and the commissioners court can not agree upon the amount of damages to be paid, the county may proceed to condemn the same, in the same manner that a railroad company can condemn land for right of way, and the same proceedings may be had, and the same rights shall exist to each party as would exist if the proceedings were by a railroad company, except that the county shall in no case be required to give bond, either for cost or on appeal.

Sec. 15. This act shall be cumulative of all general laws of the State on the subject of roads and bridges and employment of county convicts not in conflict herewith; and where not otherwise provided herein such general laws shall apply, but in case of conflict with general laws, this act shall govern; and the courts of the State shall have and take judicial cognizance of this act in the same manner and to the same extent as they are required to know and notice the general laws of the State.

Sec. 16. The vast amount of important business pending, and the fact that the roads of said county are in a deplorable condition for the want of a more efficient road law, creates an emergency, and an imperative public necessity exists that the constitutional rule requiring bills to be read on three several be suspended, and that this act take effect from and after its passage, and it is so enacted.

Approved March 8, A. D. 1893.

[Note.—The foregoing act takes effect ninety days from adjournment.]

DENISON—AMENDMENT TO CITY CHARTER.

CHAP. 3.—[S. B. No. 171.] An act to amend sections 12, 19, 23, 65, 145, 147, 149, 158, and 160 of an act entitled "An act to incorporate the city of Denison, in Grayson County, Texas, and to fix the boundaries thereof, and to provide for its government and the management of its affairs," passed March, 1891.

Section 1. Be it enacted by the Legislature of the State of Texas: That sections 12, 19, 23, 65, 145, 147, 149, 158, and 160 of an act entitled, "An act to incorporate the city of Denison, in Grayson County, Texas, and to fix the boundaries thereof, and to provide for its government and the management of its affairs," shall hereafter read as follows:

Section 12. The presiding officer in each ward shall select three judges and four clerks, who, with the presiding officer, shall be managers of the election. The presiding officer and judges must be qualified voters in the city. The city council shall provide for their compensation, and shall define and regulate their duties and powers. The mayor, whenever an election is ordered, shall give the required notice, and issue to the presiding officer a writ of election; and every published notice of election shall state the officer or officers to be elected, the place where the election shall be held, and the name of the presiding officer thereat. In case the presiding officer so appointed is unable, fails, refuses, or neglects to act, or the mayor or the city council have failed to appoint such officer, or in case no appointed presiding officer appears to open the polls, the attending qualified voters may appoint such officer, who shall perform the duties and have the same powers as the first appointee. But in such case the managers, in their returns or otherwise, shall certify that the presiding officer failed to attend, or neglected to act, and that the person acting as such was duly elected by the electors present.

Section 19. The compensation of all officers shall be such as may be fixed by the city council. Such compensation of officers elected by the qualified voters shall be fixed not less than sixty days before each annual election at which such officers are elected, and the compensation of officers and employes elected or appointed by the city council shall be fixed by the city council electing or appointing such officers or employes on or before the first day of May of each year; and the pay of no city officer shall be increased or diminished during his term of office, and no city officer shall receive any extra pay during his term of office.

Section 23. The judicial power of the city of Denison shall be and the same is hereby vested in a court to be known as the Denison city court, to be presided over by a judge to be known as the city judge, which court is hereby created and established with criminal jurisdiction as follows: First, to try, hear, determine, and punish all offenses against the ordinances of the city of Denison of which the mayor's court formerly had jurisdiction. Second, to try, hear, determine, and punish all misdemeanors arising under the ordinances of said city, authorized by the provisions of this charter. All prosecutions shall be conducted in the name of the city of Denison.

Section 65. To control and regulate the carrying on of manufactories and works dangerous in causing or promoting fires, and to regulate the location of cotton presses, sheds, and other buildings dangerous on account of fire, and to control and regulate the location and use of steam engines in the city, and prescribe rules and regulations in relation thereto, as may seem best for the public safety and comfort.

Section 145. The city council shall have power by ordinance to provide for and cause a general sewer system to be constructed, maintained, and regulated in such manner and out of such material as the council may prescribe. Public sewers shall be established as the council may direct, and there may be extensions of branches of sewers already constructed, or

entirely new throughout, as may be deemed expedient. The city council may, if necessary, levy a tax on all taxable property in the entire city, to pay for the construction and repairs of such public sewers, which shall be called "a special sewer tax," and used solely for that purpose. No public sewer shall be constructed or run diagonally through private property without the consent of the owner, when it is, without injury to said sewer, practicable to construct it parallel with one of the exterior lines of said property. No public sewer shall be constructed through private property without the consent of the owner, when it is practical to construct it along or through a street or public highway. District sewers may be established within the limits of districts defined by ordinance, and shall connect with other sewers or drains, in such manner as the city council may prescribe. And the city council shall have power, in the event that any owner of property within the sewer districts that are now established, or that may be hereafter established by the city council, shall fail and refuse to make such sewer connection, after having been duly notified to make such connections, then the city council may have such connection made, and charge the expense of the same against the property, and the same shall become a tax and lien against the same, and be collected in the same manner as are other special taxes and liens provided for in this charter; and all such persons who shall fail and refuse to make such connections may be arrested and fined for each day such owner shall refuse and neglect to make such connections. The city council may compel all owners of property to make proper connections with such sewers, and regulate and enforce by ordinance the connection of all privies, sinks, etc., with public or district sewers. The city council shall also have power to provide by ordinance for the construction of a general system of drainage or storm-water sewers, in such parts of the city as they may deem necessary, and within such limits as they may prescribe by ordinance, and connect same with other like sewers or drains in such manner as the city council may by ordinance prescribe, and to regulate and enforce all rules and ordinances concerning same. Such sewers or drains shall be constructed at the cost of the property owners specially benefited or abutting on said sewers or drains. The question as to what property has been specially benefited by the construction of same shall be decided by a board of arbiters to be appointed by the city council, to be composed of three disinterested freeholders, residents of Grayson county, who shall examine into and report in writing to the city council, stating the names of all property owners benefited by same, and give a description of all such property; which report, when adopted by the city council, shall be final as to such question. Whenever the city council shall determine by ordinance that such work shall be done, they shall advertise for bids, giving the plans and specifications and extent of such improvement. The work shall be let to the lowest responsible bidder, in the discretion of the council, and with such bond as the council may require. When any such storm-water sewer or drains shall have been completed the city engineer shall report the entire cost of said work to the city council, and shall furnish a list of property owners in said district drained by said sewer or drain, and all owners abutting thereon, together with a description of the property, and the city council shall thereupon appoint a board of arbiters as herein provided for, and upon the filing of said report the city council shall thereupon proceed to assess said cost against said prop-

erty and levy a special tax therefor against the lots of ground so benefited or abutting on said sewer or drain in proportion to the area of the whole of said property so benefited or abutting thereon, exclusive of public highways. The city assessor and collector shall enter such in a book kept by him for that purpose, and shall proceed to collect same as other special taxes and liens provided for in this charter. Said tax shall be a lien upon the property from the time of the levy. The city council shall have power to regulate and enforce all rules and ordinances in the plumbing of dwelling houses and other buildings of whatsoever kind, within the limits of the city, and may require a bond from all plumbers or contractors carrying on any plumbing business, conditioned as the council may require, and may prohibit any one from doing any plumbing work whatsoever until a license is obtained by such person from the proper officer of the city, in such manner as the city council may provide. All plumbing shall be made subject to the inspection and approval of the city engineer and city council. All connections with any main line of sewer, or any lateral line thereof, shall be done at the expense of the owner of the property in or from which such connections are made.

Section 147. The city council shall have power, by resolution or otherwise, to require the filling up, draining, and regulating of any lot or lots, grounds, or yards, or other places in the city, which shall be unwholesome, or have stagnant water or filth of any kind therein, or from any other cause be in such condition as is liable to produce disease; also to cause all premises to be thoroughly cleansed, and also to order the cutting of weeds and high grass on private property, and in portions of streets and highways between the lot and curb walls, and to cause all premises to be inspected and cleansed; also to require the making, filling up, altering, and repairing of all sinks and privies, and direct the mode and material for constructing them in future. And said city council shall have full power, by ordinance, to provide for the punishment of all persons failing or refusing to do any of such things, or permitting the premises occupied by them to be in a filthy or unhealthy state. In case of filling up or draining any ground, if the owner thereof can not be found, or for any cause fails or refuses to do said filling or draining, the city may have the same done and tax the expense thereof against the said ground, as a special tax and lien thereon, and collect the same as provided for the collection of any other special taxes or assessments in this act.

Section 149. The city of Denison is hereby constituted a separate and independent school district, and shall receive from the State such pro rata of the available school fund as its scholastic population may entitle it to. The city public schools shall be under the management and control of a board of school trustees, composed of one member from each ward, who shall be selected by the legally qualified voters at the annual general elections, as vacancies occur, and shall hold their office for the term of two years: Provided, that at the election to be held on the first Tuesday in April, A. D. 1893, no trustees shall be elected for the second and fourth wards, and the present members of the board from those wards shall hold their office until the general election to be held on the first Tuesday in April, 1894, unless a vacancy occurs therein. They shall serve without compensation. Their duties shall be to look after the interests of the public schools of the city, and to enact suitable regulations for their government, to elect a superintendent, teachers, and janitors, and fix and pay

their salaries; to keep the school buildings and grounds in repair, and keep the property insured; purchase all supplies, make or have made, all repairs, fences, and walks. The mayor shall be, *ex officio*, a member of the board, and they shall have power to regulate their own meetings and proceedings. They shall elect a president from among their number. They shall audit all bills and accounts, and approve the same, and order the issuance of warrants for the payment of same. The city council shall provide means to pay for all repairs, furniture, and supplies necessary for said schools, and for keeping school houses and grounds in repair. The city shall annually make an appropriation sufficient to supplement the State school fund, so as to run the schools at least nine months in each year. In case the said city shall have decided, under the laws providing therefor, that a special tax shall be levied for the support of the public free schools, the city council shall annually assess and levy such tax, or so much thereof as, in the judgment of the board of trustees, may be required to run the said schools; said levy not to exceed one-half of one per cent, to be levied by ordinance duly passed and approved in the same manner as is required in the assessment of the taxes for general purposes in said city. The city treasurer shall be treasurer of the board of school trustees, and shall execute such additional bond as the city council may by ordinance require. The city secretary shall be secretary of the board of school trustees. All bills or accounts approved and ordered paid by said board of trustees shall be paid by the treasurer on warrants issued by the city secretary and signed by the president of the board of trustees. The city council may, by resolution or ordinance, provide for the taking of the scholastic census annually in such manner as they may direct. All funds received from the State by the city as its *pro rata* of the available school fund, and all funds appropriated by the city council out of its general revenue for the support and maintenance of the public schools, or raised by special taxation for that purpose, or derived from any source of revenue set apart for the support and maintenance of said schools, and all funds arising from any gift, devise, or bequest made to the city for the support and maintenance of public schools, shall be under the management of the board of trustees. The city shall have power to receive, take, and hold any property, real, personal, or mixed, which has been or may be conveyed by gift, devise, or bequest, for the benefit of the public education herein, and to lease or invest the same so as to derive a revenue therefrom; and the control, management, leasing, and investment of such property, and all funds arising therefrom, shall be vested in the board of school trustees. The duty of providing school buildings and furniture, and grounds for the erection of same, shall be performed by the city council, and all funds appropriated, or raised by taxation or otherwise, therefor shall be under their control. Said school trustees shall be freeholders and qualified electors in the wards from which they are elected.

Section 158. The city council shall have full power and authority to grade, fill, raise, repair, macadamize, remacadamize, pave, repave, or otherwise improve any avenue, street, or alley, or any portion thereof, in the city, to such an extent, and out of such material, and under such regulations, as said council may provide, whenever a majority of the aldermen present vote in favor of such improvement. All grading of streets and sidewalks shall be at the cost of the city. All repairing of streets

shall be at the cost of the city, unless otherwise provided herein. The word "repairing," as herein used, shall apply only to small or ordinary defects in the streets that have been put to grade and paved or macadamized. All other improvements, such as macadamizing and paving, shall be done in the following manner, to-wit: The property owners on each side of the streets so improved shall pay two-thirds of the cost, and the city shall pay the remaining one-third, the same to be recovered pro rata, according to the number of front or abutting feet respectively owned by them on such street or avenue: Provided, that when any person, corporation, or company owns or operates any street railroad, or railroad of any kind, on such street, avenue, or alley, such person, corporation, or company shall pay for paving or otherwise improving that portion of the street, avenue, or alley between the rails of such road, and a space one foot in width on each side of said rails of such road. The city shall pay for all street intersections so improved, except that portion occupied or used by said railroads, which must be paid, as above provided, by the owners or operators thereof. Property owners shall pay the entire cost of all curbing. The pro rata share of the cost of such improvements due from the property owners and said railroads, as above provided, together with the expense of collecting the same, and a penalty of ten per cent for failure to pay same when due, shall be a special tax and lien against the lot or lots or blocks fronting or abutting upon the street improved, and against the roadbed, ties, rails, fixtures, rights and franchises of such street or other railroad that may be operated thereon. The city council shall, by resolution duly passed, designate the street or streets, avenues, or alleys, or portions thereof, to be improved, the nature of the improvement to be made, and the material to be used. Whenever the city council shall so determine upon such improvements they shall advertise for bids, giving the plans, specifications, and the extent of the improvement. The work shall be let to the lowest responsible bidder, in the discretion of the council, and with such bonds as the council may require. Said council shall levy a special tax on the property fronting or abutting on the streets so improved for the pro rata amounts due from property owners, and when street or other railroads are operated on said street or streets, the council shall levy a special tax upon the roadbed, ties, rails, fixtures, rights, and franchises of such road for the pro rata share due from them for improving the space between the rails and the distance of one foot outside of said rails of such road. Said tax shall be levied after said contract is let; shall become due and delinquent as the ordinance levying the same may specify; shall be a lien from the time of the levy, and shall be used for the payment of said improvements. If said taxes be not paid as provided for by ordinance, the collection of said tax, and the further sum of ten per cent on the same as a penalty, and six per cent per annum from date of completion of such work, shall be enforced as the collection of other taxes, by advertisement and sale of property, rights, and franchises levied upon, or by suit to foreclose said lien in any court having jurisdiction: Provided, no sale shall be made by virtue of any special lien herein created until the end of six months after such work is completed. At such sales the collector shall execute to the purchaser a deed similar to the one executed when property is sold for ad valorem taxes. Nothing in this section shall be construed so as to prohibit the owner or owners in front of whose property such street improvement shall have been

ordered from doing such work, and thus avoid such special assessment against his or her property. Provided, however, such owner or owners will obligate themselves to make and complete such street improvement within the time, and in accordance with the plans and specifications made by order of the city council.

Section 160. The city council shall fix and determine the nature and extent of sidewalk improvements, and decide as to the kind of material to be used. The cost of constructing all sidewalks, including curbing, and the keeping the same in repairs, together with the cost of collection and penalty (but not including the grading), shall be defrayed entirely by the property owners of the lots or blocks fronting on the sidewalks to be constructed, according to the number of feet frontage owned by each of them. Whenever the council, by resolution or otherwise, orders the construction of any sidewalk, and notice thereof has been served on the property owner, if in the city, or if out of the city, upon his agent, it shall be the duty of such property owner or his agent to at once construct such sidewalk as is ordered by the council, and under the supervision of the city engineer. If such property owner, or his agent, shall fail or refuse to construct such sidewalk within the time required by the council, after notice served upon the owner or his agent, if he have an agent in the city, and if he has no agent in the city, then by mailing notice to said party if his residence be known, and if his residence be unknown, then by publication of said notice for ten days in the official paper of the city, then the city may have such sidewalks constructed, and the expense of the same, together with the cost of collection, and ten per cent of the cost of such work in addition thereto as a penalty, shall be a tax and charged against the person or persons owning the tract of land abutting upon the street or highway at the place where such work is done, and the same shall be a lien and encumbrance upon the land itself until the same is fully paid and discharged, and the collection of the same may be enforced by sale of the property in the same manner as provided for the collection of other special tax and lien for street improvements in this act; and such charge against such property owner shall become due on the completion of the work, and shall be collected promptly by the city assessor and collector, and if not paid within thirty days thereafter, after becoming due, the same may be collected, with ten per cent in addition thereto as attorney's fees, and six per cent interest per annum, and the lien foreclosed in any court having jurisdiction: Provided, no action shall be had to enforce such special tax and lien until after the expiration of six months from the time such tax was levied or such work completed. An itemized bill or statement of the work, when done by the city under the provisions of this section, after being duly sworn to by the officer under whose direction the work has been done, and after having been approved by the mayor, shall be prima facie evidence in any court of the performance of the work stated in such bill, at the cost therein stated, and compliance with all the provisions of this act, and that the amount stated is a just charge and tax against the property owner therein named, and a lien upon the property described, as shown therein, subject to such correction as to the court shall seem meet and proper. In addition hereto the city council shall have the power, by ordinance, to punish persons who fail or refuse to build or repair sidewalks after having been duly notified.

Sec. 2. The fact that it is important to the interest of the general public of said city that the changes of the charter of said city made by this act go into effect immediately, creates an emergency and an imperative public necessity, which requires the suspension of the constitutional rule requiring bills to be read on three several days, and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved March 27, A. D. 1893.

[Note.—The foregoing act takes effect March 27, 1893.]

DALLAS—AMENDMENT TO CITY CHARTER.

CHAP. 4.—[H. B. No. 676.] An act to amend sections 6, 8, 9, 10, 14, 15, 61, and 185, of an act entitled "An act to incorporate the city of Dallas, and to grant it a new charter," approved March 13, 1889, and section 161 of said act, as amended in 1891; and to repeal section 10 of an act entitled "An act to amend sections 10, 21, 28, 94, 120, 140, and 158 of an act entitled an act to incorporate the city of Dallas, and grant it a new charter," approved March 13, 1889, passed by the Twenty-second Legislature, and certified to by the Secretary of State on March 9, 1891, and to repeal all conflicting laws; and to conform same to the objections of the Governor, in his veto message of March 18, 1893.

Section 1. Be it enacted by the Legislature of the State of Texas: That sections 6, 8, 9, 10, 14, 15, 61, and 185 of an act entitled "An act to incorporate the city of Dallas, and to grant it a new charter," approved March 13, 1889, and section 161 of said act as amended in 1891, be and the same are hereby amended so as to read as follows:

Section 6. The legislative power of the city of Dallas shall be vested in the city council, consisting of the mayor and one alderman from each ward: all of whom shall be elected by the people biennially as hereinafter provided; said officers shall perform such duties as are herein required and as may be prescribed by ordinances. The mayor shall receive an annual salary of not more than twenty-four hundred dollars, and he shall not receive any fees or commissions. The aldermen shall receive for their salaries such compensation as the city council may provide by ordinance, not to exceed three dollars for each meeting.

Section 8. No person shall be eligible for any office, elective or appointive, of the city of Dallas unless he shall be a qualified voter therein; and no person shall be eligible for the office of mayor or alderman of said city who owns or holds any shares of stock in any corporation having or to have any contract with said city by which it holds any right, franchise, or immunity from said city government, or which is entitled to any compensation out of the city treasury; and no member of the city council shall hold any other office or employment under the city government while he is a member of said council, unless in the city charter otherwise provided; and no member of the city council, or any officer of the city council, shall be directly or indirectly interested in any work, business, or contract, the expense, price, or consideration of which is paid from the city treasury, or by any assessment levied by an ordinance or resolution of the city council, nor be the surety of any person having a contract,

work, or business with said city, for the performance of which security may be required, nor be surety on the official bond of any officer of the city. Contracts in violation of said provision shall be void.

Section 9. The first general election under this charter shall take place on the first Tuesday in April, 1893, at which time, and every two years thereafter, there shall be elected by the qualified voters of said city a mayor and city judge, who shall hold their offices for two years and until their successors are elected and qualified. There shall also be elected at said time by the qualified voters of each ward in said city in which the office of the alderman theretofore elected from the said wards shall expire at said time, one alderman; the aldermen so elected shall hold their offices for two years and until their successors are elected and qualified: Provided, at the first general election held under this charter there shall be elected one alderman from each ward. Six of said aldermen shall hold their offices for two years and until their successors are elected and qualified, and six for one year and until their successors are elected and qualified. The length of time for which each of said aldermen shall serve shall be decided by lot at the first meeting of the city council after said aldermen shall qualify, or as soon thereafter as practicable. At such time said aldermen shall divide themselves into two classes, one of which classes shall serve one year, and one of said classes for two years, and until their successors respectively are elected and qualified: Provided, that the term of office of all the present aldermen of said city shall expire on the first Tuesday in April, 1893, and as soon thereafter as the aldermen elected, as herein provided, shall qualify.

Section 10. The general election held under this charter shall be held on the first Tuesday in April, 1894, at which time, and every two years thereafter, there shall be elected by the qualified voters of said city a city collector, city assessor, and chief of police, who shall hold their offices for two years and until their successors are elected and qualified. There shall also be elected at said time by the qualified voters of each ward in said city in which the office of the aldermen theretofore elected from said wards shall expire at said time, one alderman. The aldermen so elected shall hold their offices for two years and until their successors are elected and qualified.

Section 14. All such elections shall be held according to the provisions of the law of the State of Texas applicable thereto; the presiding judges thereof shall be qualified voters in the city. The city council shall provide for their compensation and regulate and define their duties and power, and they shall have such judges and clerks as are in such cases provided by the laws of the State of Texas, which judges and clerks shall be selected by the presiding judges. In case the officer so appointed presiding judge is unable, fails, or refuses, or neglects to act as such, or the city council shall fail to appoint, or in case no presiding officer appears to open the polls, the attending qualified voters shall appoint such officer, who shall have the same powers and perform all the duties of presiding judge. But in such cases, such judges shall in their returns certify that the presiding officer failed to appear, and that the presiding officer acting as such was duly elected by the electors present.

Section 15. The manner of conducting and voting at such elections under this act, keeping the poll lists, canvassing the votes, and certifying the returns shall be such as provided by the laws of the State of Texas

for similar elections, and as may be provided by the city council by ordinance.

Section 61. To provide for the lighting of streets, public grounds, and public buildings, and furnishing the citizens of said city with light, and to erect, own, use, and operate all necessary machinery, fixtures, appliances, and appurtenances, of every nature whatever, necessary for said purpose, and to demand and receive compensation for lights furnished for private purposes, and to provide for the location and regulation of such lights.

Section 161. That the city public schools shall be under the management and control of a board of school directors, composed of the mayor and one member from each ward, which said members, with the exception of the mayor, shall be elected at the general elections of the city, and shall hold their offices for the term of two years, and serve without compensation: Provided, that this section shall in no way interfere with the term of office of any of the present members of said board, except the members from such wards as may be changed or established prior to the next general election: And provided, that the members of said board who shall be elected from such wards as may be changed or established prior to said election shall, in such manner as said board may determine, as soon after said election as practicable, divide themselves into two classes, one of which said classes shall serve for one, and the other for two years, and until their successors are elected and qualified. Any vacancy on said board shall be filled in conformity with the ordinance regulating special elections. Said board of school directors shall have exclusive control of the public schools of the city of Dallas, and shall have full and complete power to provide necessary school buildings and facilities, and to open and conduct a sufficient number of schools to meet the wants of the scholastic population of the city of Dallas, so far as they can do so by prudent and judicious application of the means made subject to their administration and management. Among the powers hereby conferred on said board of school directors, the following are, for greater certainty, enumerated: To contract for, lease, and purchase lots, and to construct buildings for school purposes, and to make all needed repairs and alterations in the same; to furnish said school buildings with all appropriate furniture, fixtures, and apparatus; to lay off the city in such school districts as in the judgment of said board shall be proper; to increase or diminish said districts, and to change the boundaries thereof at pleasure; to employ superintendents, teachers, and such other persons as may be necessary, and to fix their compensation and prescribe their duties; and establish all regulations and rules deemed necessary by the board to provide and maintain an efficient system of public schools in the city of Dallas. Said board of school directors shall, annually, at such times as may be fixed by the city council, file with the mayor or city council an official statement of the amount of money, as nearly as can be estimated by said board, which will be needed to pay the cost of maintaining the public schools for the next succeeding scholastic year, exclusive of the money, if any, derivable from the State or any other source: Provided, the amount required by said board shall not in any one year exceed one-fourth of one per cent of the taxable values of the city of Dallas. When said statement shall be filed by said board, the city council shall, in such sums and at such times as the school board may determine are necessary

to meet the requirements of said board for defraying the expenses incurred, appropriate out of the funds of the city, as far as collected, the amount required by said board for school purposes, which said sums, together with all sums received from the State, county, and other school funds, shall be held in the city treasury subject to the order and disbursement of the school board, and shall be paid out upon warrants issued by order of the school board, and signed by the president, attested by the secretary, and countersigned by the mayor. The mayor and city council shall have the right at any time to demand of said school board an account of all sums received, disbursed, and expended by them for school purposes, accompanied by vouchers, data, and all other information deemed necessary to enable the city council to ascertain the cost, necessities, and expenses of said public schools.

Sec. 2. That section 10 of an act, entitled "An act to amend sections 10, 21, 28, 94, 120, 140, and 158 of an act entitled an act to incorporate the city of Dallas, and to grant it a new charter," approved March 13, 1889, passed by the Twenty-second Legislature, and certified to by the Secretary of State on March 9, 1891, be and the same is hereby repealed.

Sec. 3. That all laws and parts of laws in conflict herewith be and the same are hereby repealed.

Sec. 4. The near approach of the election in the city of Dallas creates an emergency and an imperative public necessity requiring the suspension of the constitutional rule requiring bills to be read on three several days, and said rule is hereby suspended; and this act shall take effect and be in force from and after its passage, and is so enacted.

Approved March 30, A. D. 1893.

[Note.—The foregoing act takes effect March 30, 1893.]

HOUSTON—CITY CHARTER.

CHAP. 5.—[H. B. No. 561.] An act to incorporate the city of Houston and grant a new charter to the said city of Houston.

Section 1. Be it enacted by the Legislature of the State of Texas: That all the inhabitants of the city of Houston shall be a body corporate, to be known hereafter by the name of the city of Houston, and by that name they shall hereafter be known in law, and shall be capable of suing and being sued, and defending in all courts in all matters whatsoever; and may have a common seal, and may alter and change the same at pleasure; may own, hold, and convey any estate, real or personal, for the use of said corporation, for any purpose whatsoever, both within the limits of said city and without the limits of the same, in Harris County, Texas.

Sec. 2. That the bounds and limits of said corporation shall be three miles square, to be run with the cardinal points of the compass, of which the center of the court house square in the city of Houston shall be the center.

Sec. 3. That the city council may divide the city into a convenient number of wards, not less than three nor more than twelve, and define

and establish the boundaries thereof, and may change the same, from time to time, as may be deemed expedient, having regard for the number of inhabitants, so that each ward shall contain, as near as may be, the same number of qualified electors for city elections.

Sec. 4. That each ward in the city may be divided into as many sections and as many polling places as may be prescribed in said sections as the city may see fit and proper; and each ward in the city shall be represented in the city council by two aldermen, who shall hold office for two years and until their successors are elected and qualified; said aldermen shall be elected by the qualified voters of the ward for which they stand, and all voters shall have resided in such ward at least thirty days next preceding any election. And no person shall be competent to fill the office of alderman unless at the date of his election he be a qualified voter of the city and of said ward, and a freeholder owning real property in said city and ward. Should any alderman remove from his ward during the term for which he was elected, his office shall thereupon become vacant, and the council shall order an election in said ward to fill such vacancy.

Sec. 5. That the administration of the business affairs of said corporation shall be conducted by a mayor and board of aldermen, consisting of two aldermen from each ward, who shall compose the city council.

Sec. 6. All qualified electors of the State, who shall have resided for six months immediately preceding the election within the limits of said city, shall have the right to vote for mayor and all other elective officers of said city; but in all elections to determine the expenditure of money or the assumption of debt, only those shall be qualified to vote who pay taxes on property in said city.

Sec. 7. That the mayor shall be elected by the qualified voters of the city, and shall hold his office for the term of two years, and until his successor is elected and qualified. No person shall be mayor unless he is a qualified elector of the city. He shall be a conservator of the peace throughout the city. He shall have power, by and with the consent of the city council, to appoint any number of policemen on any special occasion that he may deem necessary to preserve the peace of the city, and to discharge the same at pleasure. He shall have power, in case of necessity, to call out the militia, or any military company in the city, to aid in the suppression of any riot or public disturbance. He shall be active and vigilant in enforcing all laws and ordinances for government of the city, and he shall cause all the subordinate officers to be dealt with promptly for any neglect or violation of duty. He shall preside at all meetings of the council when present, and in case of a tie vote in the board of aldermen he shall give the casting vote. He shall have the power to veto any resolution, by-law, ordinance, motion, or order passed by the council, in the following manner.

He shall give notice of his veto at the same meeting in which said action was had, which shall be entered upon the minutes. At the next regular meeting he shall furnish to the council his reasons, in writing, and unless the council shall pass such law, ordinance, etc., over his veto by a vote of two-thirds of the aldermen present, taken by "yeas and nays," and entered upon the journal of the council, the same shall be inoperative. He shall have and exercise such power and authority as may be

conferred by the city council, not inconsistent with the general purposes and provisions of this charter.

Sec. 8. That regular meetings of the city council shall be held in the council chamber at least twice in each month, at such times as may be fixed by resolution of the board, and the mayor, of his own motion, may call special meetings for the transaction of special business by written notices served personally upon each member of the board, or left at his usual place of abode. Any three members of the board may, in like manner, call special meetings of the council; but no special meetings shall be called except in cases of urgent necessity, and the written notices served upon the members of the board shall state the object and purpose for which the meeting is called. General business shall only be transacted at the regular meetings. The city council may adjourn from day to day, until the business properly coming before it is disposed of.

That a majority of the whole number of aldermen elected and qualified shall be required to constitute a quorum, but any four aldermen may convene and compel the attendance of absent members on any day of regular meeting, requiring the city marshal or other police officer to arrest and bring in the absent members. That the city council shall adopt rules and regulations for the government of the council in its proceedings, and the order for the transaction of business before it.

It shall be the judge of the qualifications and election of members of the council, including the mayor.

It may punish members or other persons during the sittings of the council for disorderly conduct, to the extent that it may fine and imprison, by its by-laws and ordinances. And with the affirmative vote of two-thirds of the whole number of aldermen elected and qualified, the council may remove any officer of the city for any conduct or offense which in the opinion of the council, expressed by the two-thirds vote aforesaid, shall render him unfit to hold his office; but no officer shall be removed until he shall have had the opportunity of being heard by himself or counsel, or both; and in the investigation of any complaint under this section the council may subpoena and examine witnesses, under the usual rules for taking testimony.

That the meetings of the council shall be held with open doors, except when, by a vote of two-thirds of the members present, it may be deemed expedient upon a special question to deliberate with closed doors.

Sec. 9. That whenever it shall be necessary so as to do, the board of aldermen shall, by ballot, elect a member of their own body to act for a designated period as mayor pro tem., who, for the time, shall have and exercise all the powers and authority of the mayor. That in case of a vacancy occurring in any office elective by the qualified voters of the city the council shall fill the vacancy by appointment for the unexpired term.

Sec. 10. That there shall be elected by the qualified voters of said city a city engineer, treasurer, city marshal, assessor and collector of taxes, street commissioner, and a city recorder, who shall hold their respective offices for two years, and until their successors are qualified, unless sooner removed by the city council: Provided, that the present officers of said city shall hold their offices until the next election of city officers, as prescribed by the ordinances now in force. The assessor and collector may appoint one or more deputies, for whose conduct he shall be responsible,

and deputy or deputies shall have power to perform any act which may be performed by the assessor and collector in person.

Sec. 11. The mayor shall appoint a secretary, a city attorney, a market master, a health officer, a city scavenger, and a superintendent of schools, whose appointment shall be confirmed by the city council, who shall hold their respective offices for two years, and until their successors are qualified, and shall perform such other duties as may be prescribed by the city council.

Sec. 12. The mayor, with six citizens of the city of Houston, three of whom shall be appointed each year by the mayor and confirmed by the council, shall constitute the board of public school trustees of said city.

Sec. 13. That the recorder of said city shall exercise such jurisdiction as may be prescribed by the city council, not inconsistent with the Constitution and laws of the State, and such as may be conferred by the general laws on mayors and recorders; but when any person has been tried before a justice of the peace for any offense committed in said city against a general law, such person shall not be tried again for the same offense before said recorder. The rule of procedure in courts of justices of the peace in criminal matters shall govern the recorder's court in all matters in practice, and appeals may be taken from his decisions in a like manner. In the absence of the recorder, or in case of his inability to hold his court, the mayor of said city shall hold the same, and the acts and judgments of such mayor shall have the same force and effect as those of the recorder. The recorder shall have the same power to administer oaths, punish for contempt of his court, to summon witnesses and compel their attendance by process, to summon jurors and compel their attendance, as justices of the peace have. Such recorder's court shall be opened daily, and the accused shall have a speedy public trial. The salary, if any, and fees of such recorder shall be determined and fixed by the city council; and such recorder shall, from time to time, as required, report to the council, and do and perform such duties properly appertaining to the office as may be prescribed by the city council: Provided, That all process beyond the city limits shall be directed to and executed by the sheriff or some constable of the county.

Sec. 14. The city secretary shall attend the city council at its meetings, and shall have the custody of all laws and ordinances of the city, and of its valuable papers, records, and archives, and also of the common seal of the corporation, and shall affix the same to the obligations of the city by order of the city council. He shall keep a regular and correct journal of the proceedings of the council in well bound record books, and shall perform such other duties as the city council may prescribe or direct.

Sec. 15. The city treasurer shall have the custody of all moneys, and shall receive all moneys and revenues coming into the city treasury, and pay the same out by order of the council. He shall keep the moneys and funds of the city on deposit in some bank in the city of Houston, and he shall keep the accounts of the city in well bound books, and the books and records of the office shall be open to the inspection of any citizen at any reasonable and proper time. He shall prepare and publish in one or more newspapers printed in the city of Houston an accurate and detailed statement and account of the receipts and disbursements of the revenues of the city, the outstanding obligations and liabilities of the city, and the con-

dition of the city treasury, which statement shall be prepared and made up to the last day of December of each year, and published on or before the fifteenth day of January following; and it shall be the duty of the city council to require this statement to be made and published, and should the statement not be made in the manner and at the time provided, the treasurer shall be liable to a fine of one thousand dollars, to be recovered in the district court of Harris county, at the suit of the city attorney, for and in behalf of the city of Houston, and the securities of the city treasurer on his official bond shall be liable for the amount of such fine.

Sec. 16. The city attorney shall attend all meetings of the council, attend to all civil suits to which the city is a party, unless the council otherwise provides, and shall represent the city and State, in person or by deputy, in the recorder's court when necessary, when requested so to do; shall draw all ordinances and inspect and pass upon all documents involving the interests of the city when requested so to do by the mayor or city council, and shall be the legal adviser of all the officers of the city upon legal questions touching their official duties, and he shall perform such other duties as the council may prescribe.

Sec. 17. That the city marshal shall be the chief police officer of the city, under the mayor. He shall, in person or by proxy, or by some officer of the police force, attend all regular and special meetings of the council. He shall attend upon the recorder's court, and shall promptly execute and return all process issued from said court. He shall be active in quelling riots, disorders, and disturbances of the peace within the limits of said city, and shall take in custody all persons so offending against the peace of the community. He shall arrest all offenders against the ordinances of the city for offenses committed in his presence, and shall have authority to take bail for their appearance before the recorder, and in default of giving which, he shall commit them to the city prison for safe keeping until they can be brought before the recorder for trial. He shall have authority to appoint one deputy, for whose acts and conduct he shall be responsible, and such deputy shall have all the power and authority of the marshal. He shall perform such other duties, and shall be invested with such other powers, rights, and authority as the city council may by ordinance confer, not inconsistent with the Constitution and laws of the State. He shall be, at all times, under the direction and control of the mayor and the city council, and may be by them suspended or removed from office for cause deemed by them adequate. He shall not absent himself from the city, without first obtaining from the city council a leave of absence, which leave shall state the duration of such absence.

Sec. 18. That the assessor and collector shall assess and collect all licenses and taxes levied and imposed by the city council, and shall pay the same over to the treasurer weekly, on the Saturday of each week, taking duplicate receipts therefor, one of which he shall retain, and the other he shall return to the council (or the proper committee appointed by the council to receive the same), with his report in detail, showing the several amounts received and by whom paid, which report shall be made to the first meeting of the council in each month. He shall be governed by the rules and regulations hereinafter prescribed in relation to the assessment and collection of licenses and taxes imposed by the city council, and shall do and perform such other acts and duties concerning the administration of his office as may be prescribed by the city council.

Sec. 19. That the officers named in this charter shall perform the duties prescribed by this act, and such other duties as may be prescribed by ordinance. And there shall be such other officers, servants, and agents of the corporation as may be provided by ordinance, to be appointed by the mayor, with the approval of a majority of all the aldermen elected and qualified, who shall perform such duties and receive such compensation as may be prescribed by ordinance. The council may require any officer or agent of the city, as it may deem proper, to give good and sufficient bond, with approved security, for the faithful performance of his duties in such sum as it may prescribe.

Sec. 20. That bonds shall be required of the city assessor and collector and of the city treasurer in an amount not less than double the amount of funds which may probably be in their hands at any one time, to be determined by the council, which bonds shall be upon such conditions as may be determined by the city council, and with good securities, to be approved by the city council, and the city shall in like manner require bonds of any officer or agent of the city through whose hands the money of the city may pass.

Sec. 21. That the salary and fees of officers of said city shall be determined by the city council at least one month previous to their election, which salaries and fees, when so determined, shall not be raised or lowered during the period for which said officers were elected.

Sec. 22. That the by-laws and ordinances of the city shall be enforced by fine not to exceed two hundred dollars, or by imprisonment in the city prison not to exceed thirty days, or by both fine and imprisonment. Provided, that no ordinance or by-law shall provide a less penalty than is prescribed for a like offense by the laws of the State. The city council may provide, by ordinance, for the commutation of fines imposed by labor in a work-house, on the streets, or public works; and for the collection of any fine imposed execution may be issued from the recorder's court in the name of the city of Houston against the goods and chattels, lands and tenements of the person offending.

Sec. 23. The city council shall have the exclusive control and regulation of all streets, alleys, public grounds, and highways within the corporate limits of the city, and shall have power to abate and remove encroachments thereon in a summary manner, to put drains and sewers therein, and when necessary to appropriate private property for that purpose; to permit, to prevent, and regulate the laying of gas and water mains therein, and the erection of telegraph, telephone, and electric light poles therein; to impose such terms as to them may seem proper for the use of the streets and sidewalks for any purpose whatever, by any person or corporation, and to demand and collect for the use of the same such compensation as to the city council shall see meet and proper; to regulate, establish, and change the grade of all sidewalks, streets, and premises, and to require and compel the cutting down or filling up and raising of such streets and premises; to construct, regulate, and keep in repair all bridges, culverts, sewers, and crossings, and to control and regulate the use of the same; to construct, regulate, and keep in repair all necessary sidewalks and footways and streets, to grade, cut down, and fill up the same, to regulate the use, and abate and remove encroachments and obstructions thereon, and to compel the removal of the same, and to punish any person or corporation by fine or imprisonment, or by the imposition

of a penalty to be collected in a civil suit, who shall encroach upon or obstruct the same, or who shall fail to have such encroachments withdrawn or such obstruction removed after being notified by the proper officer to remove or withdraw the same, and to provide by ordinance that each day such encroachment or obstructions are permitted to remain after notice is served shall constitute a separate offense.

Sec. 24. The city council shall fix and determine the nature and extent of all sidewalk, curbing, street, drainage, and sewerage improvements, and decide as to the kind of material to be used. The cost of constructing or repairing (as the case may be) of all sidewalks, footways, and curbing, and cost of grading, shelling, paving, repairing, or otherwise improving any avenue, street, alley, or other highway, or any portion thereof, within the limits of the city, and the cost of all drains or sewers laid and constructed within the city, together with the cost of collecting thereof, shall, whenever, by a vote of two-thirds of the aldermen elected, such improvements shall be declared necessary for the public interests, be defrayed, in case of curbing, sidewalks, and street improvements, by the owner or owners of the lot or lots, block or blocks, tracts of land when not laid out into lots and blocks, abutting on such street or portion of street improved, according to the cost of work in front of the particular lot or block or tracts of land, and in case of sewerage or drainage improvements, shall be defrayed by the owner or owners of such lot or lots, block or blocks, or tracts of land when not laid out into lots or blocks, according to the proportionate benefits of the lots, blocks, or tracts of land within the sewerage or drainage districts hereinafter provided for, taking into consideration the area and locality of the property affected; and the cost of all such improvements shall be a tax and charge against the person or persons owning such lots, blocks, or tracts of land at the time such tax or any portion thereof shall become due as to such lots, blocks, and tracts of land, and a lien and encumbrance upon the land itself; and said tax against the property owner may be collected, and a lien upon the property foreclosed in any court having jurisdiction. The city council shall have power to provide by ordinance for the laying out of drainage and sewerage districts within said city, and to provide for the cost of constructing main and lateral drains, sewers, or conduits in such districts, by assessments against the owner or owners of the lots, blocks, or tracts of land when not laid out into lots and blocks, in such sewerage and drainage district, according to the proportional benefits respectively to such lots, blocks, or tracts of land, in view of area and locality; and main sewers and drains may be constructed, and the cost of the same assessed [against] the land within such district as aforesaid in contemplation of additional lateral or cross sewers or drains being constructed within such district at some future time. The cost of constructing curb walls and gutters, and sidewalks on the corner of any block shall be assessed against the owner or owners of the corner lot or tract of land abutting thereon: Provided, nothing in this act shall be construed to prevent the city council from constructing sewers and drains, or making street improvements in whole or in part at the expense of the city, should it be deemed advisable to do so. The city council shall, by resolution duly passed, designate the streets, or portions of streets, on which curbing, sidewalks, or street improvements shall be made or constructed, and the district within which the sewerage or drainage improvements shall be constructed, and the general nature of the improve-

ments to be made, and the principal ingredients of the materials to be used: Provided, however, that provisions may be made in such resolution for receiving bids on more than one kind of material, or of different modes of construction. Said resolution may be amended or changed by a two-thirds vote of the city council at any time previous to the publication of the advertisement for bids, and it shall be proper to embody in the same language to the effect that the improvements contemplated will be made only on those portions of the street or streets referred to where good and sufficient improvements of like character do not exist; and in such event the mayor, as the work progresses, shall determine where such existing improvements, if any, are in fact good and sufficient, within the meaning and intent of the resolution, and he shall direct the contractor accordingly; and any property owner shall have the privilege of putting down his own sidewalk and curbing in front of any lot owned by him, provided the same are completed or in course of construction prior to the leaving of material near the same for that purpose by the contractor employed by the city, and if in course of construction are completed in a manner satisfactory to the mayor at such time, to be determined by the mayor, as will not interfere with the work being otherwise done by the contractor. When sewerage or drainage improvements are contemplated, said resolution shall refer to the district within which property will be assessed for the payment of the same. The cost of paving any street intersection under the provisions of this act shall be borne by the city, and the city council is hereby authorized to levy for that purpose an annual ad valorem tax, not exceeding one-fourth of one per cent per annum. The city shall have the same time in which to pay for said work as individuals have under the provisions of this act; and street intersections as here used shall be deemed to mean all that portion of the street improved within an extension of the block lines of the intersecting streets. Any railroad or street railway company shall be liable for the cost of grading, paving, or otherwise improving the portion of the street or intersections used or occupied by such railway company, and such cost shall be a lien upon the property and franchises of the company. The portion of a street occupied by any railroad or any street railway company shall be deemed to mean all that portion of the same between the rails of all tracks laid, and extending twelve inches beyond the outer edge of the rails of such road, and including the space between double tracks and between the main track, sidetracks, or turnouts. Any railroad or street railway company proposing to occupy any street already occupied by any such company shall, besides paving along their tracks as above provided, be required to also pave between the tracks of said two roads to within twelve inches of the track of such other road. And any person or corporation having an easement in any land not in but abutting on the street, shall be liable for street, curbing, sidewalks, drainage, or sewerage improvements in same manner as though it or he were the owner of such land, and a lien shall exist on such land, inclusive of such easement right, to secure the cost of such improvement. Should any railroad or street railway company propose to lay a track on any street or portion of a street which shall have been improved under the provisions of section 23 et seq. of this act, it shall become liable, according to the portion of street occupied by such company as defined above, for such portion of the cost of improvement as the city council may direct, not in excess of what would have been its proportion

of the original cost of the improvement had its track been on the ground when the improvement was made; and such amounts, when collected, shall be credited on the assessments made against abutting property, and the city council may, by ordinance, provide for the form and manner of collecting and disbursing the same. Before any railroad or street railway company shall be permitted to occupy such improved street or portion of street, it shall file with the city secretary, in writing prepared by the city attorney, an acceptance of the terms on which its occupancy shall be permitted.

Sec. 25. After the passage of a resolution of the character next hereinbefore referred to, it shall be the duty of the city secretary to have said resolution or so much of the substance of the same advertised for not less than four days in some daily newspaper published in the city of Houston as will inform any person owning property liable to be affected by said resolution of the fact that the making of improvements is contemplated by the city council, which if carried out will subject his property to a special tax assessment for the payment of the same, and no further action in regard to the proposed improvements referred to in such publication shall be taken until the lapse of ten days from the first publication thereof: Provided, however, that failure to advertise the same for more than one day, or any mistake or omission in the wording of said advertisement, shall in no way vitiate or affect the validity of special assessments levied under the same. After the passage of such resolutions specifications for the improvements referred to in the same shall be prepared by the city engineer from time to time as the work progresses, which specifications, when prepared and adopted by the city council, shall be opened for public inspection in the office of the city secretary or that of the city engineer; and it shall be proper to provide in said specifications for such reasonable alterations in the grade, plan, form, or dimensions of the work, or additions to the same, as may become apparent or found to be necessary or expedient by the city engineer or board of public works, as the work referred to in same progresses: Provided, however, that it shall be the duty of said board of public works to examine said specifications, and a majority of the members thereof shall endorse their report in reference to the same thereon, or affix it thereto, before the same are approved by the city council: Provided further, however, that said city council shall nevertheless have the right, after such report shall have been made by the board of public works, to amend or change said specifications without further reference to said board. After said specifications shall have been finally approved by the city council, bids for the construction of said improvements shall be solicited by public advertisement, duly made, which advertisement shall refer to said specifications, and the work provided for in the same shall be let to the lowest bidder, to be judged of by the city council. Said advertisement shall be published in the city, inviting bids thereon, and the same shall state the time when such proposals will be opened, and shall show the manner in which the work is to be paid for. All proposals shall be addressed to the city secretary, and shall be opened in the presence of the city council at a regular meeting. Bond, to be fixed in amount by the city council and approved by the mayor, shall be required of all contractors.

Sec. 26. After a bid for the construction of sidewalks, curbing, street, drainage, or sewerage improvements shall have been accepted by the

council, and a contract for the construction of the same entered into, from time to time, as rapidly as practicable, there shall be prepared by the city engineer a roll or rolls, showing the number of lots, blocks, or tracts of land when not divided into lots or blocks, fronting on the street, alley, avenue, or highway to be improved, or in case of sewerage or drainage or other improvements within the district provided for, the name or names of the owner or owners of such lot or part of lot, block, or tract of land, if known to the city engineer, and if unknown to him it shall be so stated, the number of feet frontage of such lot or part of lot, block, or tract of land fronting on the portion of the street improved, in case of sidewalks, curbing, or street improvements, and the proportional cost to such lot or part of lot, block, or tract of land, in view of area and locality, in case of sewerage or drainage improvements, and the total cost as ascertained and calculated by the city engineer of such improvements necessary to be borne by each, and to be paid by each owner of such property described in such roll. After said city engineer shall have prepared a roll as provided for, covering any portion of the work embraced in the contract, he shall endorse thereon a certificate in substance as follows: "I certify that the above and foregoing roll of ownership and estimate sheet is correct, and that I have honestly and faithfully prepared the same," and he shall sign [his] name to such certificate. It shall then be the duty of the board of public works to examine such roll of ownership, and a majority of the members of said board shall endorse therein or attach thereto such report in reference to the same as they may deem proper. It shall also be the duty of the city attorney to examine said roll, nor shall the same be submitted to the city council for approval until he shall have certified that such roll of ownership is in due form, as required by the city charter. After the publication of said resolution, hereinbefore referred to, it shall be the duty of all persons owning land liable to assessment for the cost of improvements referred to in such resolution to file in the office of city engineer, previous to the completion of said roll of ownership, a correct description of all such land owned by them; and any one of them failing so to do shall not be permitted, after the final approval of said roll of ownership, to resist the payment of the full sum therein assessed against him, or against property owned by him, on account of any mistake or omission in said roll pertaining to the description of the land so owned by him, or to the name or names appearing in said rolls as the owner of the same. It shall, however, be the duty of the city engineer to exercise reasonable diligence in ascertaining the name of the owner of the respective tracts of land referred to in such roll of ownership, and in describing such tract of land correctly, and for this purpose it shall be sufficient for him to adopt the description and designation of ownership appearing in the latest assessment rolls of the city of Houston prepared for the purpose of general taxation completed at the time of the preparation of such rolls of ownership. The said roll, when approved by the city council, shall be prima facie evidence that all the prerequisites required by law pertaining to the levying of said assessments have been complied with, and in case of suit by said city to enforce said assessment, all the provisions of this act relating to misnomer, misdescription, and to suits against unknown owners in case of certificates, shall apply in favor of the city.

Sec. 27. After a roll of ownership shall have been prepared as above

provided for, the same shall be placed in the office of the city secretary for public inspection, and it shall thereupon be the duty of the city secretary to cause to be published for not less than four days in some daily paper published in the city of Houston, a notice in form substantially as follows: "Persons owning property on [here insert the name of street or streets, or description of portions of the same referred to in said roll, or a description of the territory or district to which the roll relates] are hereby notified that the roll of ownership showing the amount of the special assessment tax levied against the owners of property above referred to to cover the cost of improvement made in accordance with the resolution of the city council relating to the same, adopted [here insert the date of the resolution], has been placed in the office of the city secretary for inspection, in order that all persons interested therein, or to be affected thereby, may have an opportunity of calling the attention of the city council to any errors or mistakes connected with such assessments levied against property owned by them, as shown in said rolls." And said roll shall in no event be adopted or approved by the city council until after the lapse of ten days after the first publication of said notice; and on the filing of said roll in the office of the city secretary for public inspection, as aforesaid, it shall be the duty of the city secretary to mail a copy of said notice to the postoffice address, as far as known to him, of all persons whose names appear on said roll, and where the postoffice address of any person named in said roll is unknown to said city secretary, he shall address a letter containing said notice to Houston, Texas: Provided, however, that failure on the part of said city secretary to comply with the provisions above stated in respect to mailing said notice to any person named in said rolls shall in nowise impair or affect the validity of said roll or the validity of the assessment provided for by the same. The publication of said resolution, or substance of the same, as hereinbefore provided for, and the publication of said notice, shall be notice to all persons owning property against which special tax assessment for sidewalk, street, drainage, or sewerage improvements, or for any other purposes, may be made of the pendency of the proceedings had and to be had, and the acts taken and to be taken in reference to the same, and such persons shall be permitted, at any time after the date of the first of such publication, and previous to the final approval of said rolls by the city council, by petition to the city council filed with the city secretary, to object to any such acts and proceedings, and show wherein they have been or may be wronged or injured thereby, and to ask for a revision or correction of the same; and they shall be permitted, and it shall be their duty, before the final approval of such roll, to appear in person, or by agent or attorney, before said city council, and not thereafter at any time before any other tribunal, fraud and collusion, which was then unknown and could not by reasonable diligence have been ascertained, excepted, and apply for redress for such wrong or injury, and for the correction of such errors as they may point out and establish to the satisfaction of said council; nor shall any such roll be finally approved by the city council after filing of such petition by any person so affected or liable to be affected by said proceedings, until such petition shall have been heard and acted upon by the city council, although it shall not be necessary to incorporate in the minutes of said city council its action thereon; and it shall be the duty of any person who may deem himself

injured by the action or non-action of the city council in reference to the matters contained in such petition, within five days after the approval of such roll of ownership, to apply to the proper court for an injunction, based on the facts alleged in such petition, restraining further action on the part of the city officials, or any of them, in reference to the matter complained of in such petition, and to the extent of the petitioner's interest in the same; and neglect or failure so to do shall forever estop such petitioner and all parties claiming under him from denying the correctness of said roll or the regularity of all proceedings previously had in reference thereto, or the validity of the special tax therein assessed against the land owned by him, and at all times and all proceedings in any court in which the validity of any special tax assessment that may have been laid under the charter of the city of Houston or amendments thereto, as shown by any roll of ownership purporting to have been prepared by the city engineer in accordance with the provisions thereof may be called in question. A recovery shall nevertheless be had in such suit for such sum as ought to have been assessed against the tract of land involved, according to the mode of apportionment provided in the law of said city applicable to such improvement; and if for any reason in law or fact such recovery can not be had, then a recovery shall be allowed quantum valebat, not exceeding the contract price for the improvement in front of the lot or lots, block or blocks, or tracts of land involved, according to the front foot rule or standard; and if for any reason in law or fact recovery can not be had in either of the above modes, then recovery shall be allowed, not exceeding the contract price, to the extent and according to the standard of benefits from the improvement in question to the lot or lots, block or blocks, or tract of land involved; and such recovery, in whichever mode allowed, shall be a lien on such lot or lots, block or blocks, or tract of land, for such amount as shall be established, together with six per cent thereon from the date of the acceptance of said work by the city, and such lien shall be established and foreclosed accordingly. In case of curbing, sidewalk, and street improvements, whether the recovery is had on the original assessment or otherwise, the lien shall extend in depth as to tracts of land not laid out into lots and blocks to the usual depth of lots in said city, namely, one hundred feet.

Sec. 28. The sum assessed against each separate lot or tract of land, when not divided into lots described in the roll of ownership, shall bear interest at the rate of six per cent per annum from the first day of the month next after the acceptance by the city council of the work embraced in said roll, and shall be divided by the city secretary into annual installments, not less than three nor more than ten, as may be provided by the resolution authorizing said assessments, and of as nearly equal amounts, not less than ten dollars each, as he may deem most convenient, and he shall add to each installment the amount of interest to become due on the entire amount of principal unpaid at the maturity of said installment, and the sum so computed shall constitute the total amount due each year respectively on said tract of land. The first of said installments shall become due on the first day of the month next after the acceptance of the work embraced in said roll, and the remaining installments shall become due on the same day in each year thereafter until all are due; and the failure to pay any installment, with interest thereon, within six months after it becomes due, shall, at the option of the person entitled to collect the

same, cause all subsequent installments to mature, and shall authorize the foreclosure of the lien, for all installments of principal and interest unpaid. The owner of any property subject to assessment may at any time, whether the same be due or not, pay the same or any part thereof, with interest to the date of such payment, to the city treasurer, who shall give a receipt therefor, and note the same on the assessment roll, and if an improvement certificate has issued therefor notify the owner thereof, if known, by card through the mail, and upon the presentation of said certificate apply the sum so collected towards its payment; otherwise deposit the same as hereinafter provided in case of other collections of special assessments for street improvements; and the payment of any such assessment in full shall release said property and the owner thereof from any further liability for the work upon which said assessment was made or the obligation issued therefor.

Sec. 29. Where it has been provided by the contract that such improvements shall be paid for in improvement certificates, such certificates may be issued for the sums assessed against the several separate tracts of land appearing on said roll, whether embracing one or more lots. Each certificate shall designate the tract of land against which and the sums of money for which it is issued, that said sum has been assessed against said property as its proportion of the cost of street improvement made under a contract between the city of Houston and [here name the contractor], dated [here give the date], executed by virtue of a resolution of the city council of said city, passed [here give date], authorizing said improvements. It shall state the area or the frontage of the property upon which said assessment is based, the name of the owner, as mentioned in said roll, that it was issued by virtue of section 29 of the charter of the city of Houston, and that, as provided in section 24 of said charter, the sum of money for which it is issued is a tax against the owner of and a lien upon the property therein described. That it is payable in [here state the number of] annual installments of [here state the number] dollars each, the first of which is due on the first day of the month next after the work upon which it is issued was accepted by the council, and that each of the remaining installments will become due on the same day in each year thereafter, until all are paid. That the entire amount of principal and interest represented in said certificate bears interest at the rate of six per cent from date until paid, and that failure to pay any installment of principal and interest within six months after the same has become due shall at the option of the person entitled to collect the same cause all subsequent installments to mature, and authorize the foreclosure of the lien for all such installments. Said certificates shall be issued by series and numbers, and be dated the first day of the month next after the work upon which they were issued was accepted by the city council, and may have attached to them as many coupons as there are installments to be provided for, each of which shall show the date, number, and series of the certificates, the amount of principal and the amount of interest which it represents, and the date when it becomes due.

Sec. 30. When the resolution passed, as authorized by section 24 of this act, shall provide that the work of improvement to be done thereunder may be paid for in bonds of the city of Houston, the city council, before bids have been advertised therefor, may, by ordinance duly passed by a two-thirds vote of all the aldermen elected, provide for the issuance

of street improvement bonds. Said ordinance shall refer to said resolution by caption and date of passage, state the probable cost of said improvement as estimated by the city engineer, and authorize the mayor to have prepared bonds to that amount and of such denominations as may be deemed most convenient. Said bonds to run ten years, bear interest not to exceed six per cent per annum, with coupons therefor attached, and to be secured by lien, as hereinafter provided, upon special assessments for such street improvements. After the bonds have been so prepared, bids may be advertised for said work, to be paid for either in cash or in said bonds, the bidder to state the price of the work in each, and the city reserving the option, at the completion and acceptance by the city council of any installment of said work, of paying for the same or any part thereof either in cash or in said bonds, at the price named in said bid and upon the execution in good faith of a contract for the work authorized in said resolution, and not until then, said bonds may be sold, but in no event to be sold for less than par. The special assessments against any property improved under the first resolution of the city council, as aforesaid, which shall be passed after the passage of this act, shall constitute a special street improvement fund, to which fund the special assessments against other property for improvements made under subsequent resolutions of said city council providing for similar improvements shall, from time to time, be added, incorporated into, and constitute part of said improvement fund, which fund shall be applied exclusively to the payment for such improvements; and the bonds issued therefor, under whichever resolution made, and each and all such bonds, shall be a lien and charge against so much of said fund as is equal in amount to the entire amount of said bonds and accrued interest at any time outstanding. All special assessments for such improvements shall be collected by the city treasurer, by suit if necessary, directly from the assessment rolls, and be noted thereon and receipted for by him under seal of the city, and under no circumstances shall any abatement of principal or interest be made in favor of any person or property liable therefor on said rolls. All such collections as made, with a statement of the rolls upon which they were made, together with the proceeds of the sale of said bonds, and the amount of such bonds, and also a statement of the amount of bonds paid out towards the payment for any such improvement, shall be by the said treasurer at once deposited with some bank in the city of Houston, to be designated by the city council as the trustee of said fund. The city secretary shall also, from time to time, as such assessment rolls are approved by the city council, furnish to said trustee a certified statement, under the seal of the city, of the amount of such rolls, and under what resolutions the work embraced in said rolls was done; and under no circumstances shall said trustee pay any draft upon said fund which will have the effect of reducing the amount thereof, including cash in the hands of said trustee and the uncollected assessments on said rolls, to an amount aggregating less than the total amount of such improvement bonds then outstanding. Any excess of said fund over that amount, however, may be drawn out under authority of the city council, by check of the city treasurer, countersigned by the mayor and finance committee of said city; and after paying therefrom the matured interest on any of such bonds outstanding, under whichever of said resolutions the same were issued, the remainder shall be applied in payment for the work being

done under either of said resolutions, as the same is accepted by the city council, and to no other purpose whatever. Said city council may, in its discretion, provide by ordinance for the collection of said special assessments by the city treasurer by advertisement and sale in the same manner, so far as practicable, as in the case of general taxes levied by said city; and in such event all the provisions of said city charter relative to the collection of taxes and proceedings had in reference to tax sales under the same shall be applicable.

Sec. 31. There shall be appointed by the mayor and confirmed by the city council three citizens of the city, who shall constitute a board of public works. They shall hold their office for two years and until their successors are appointed, and shall serve gratuitously. They shall be allowed, however, \$500 annually, or so much thereof as may be necessary, to cover any expense incurred in the performance of their duties. All matters pertaining to public improvements involving an outlay of as much as \$500 shall be referred to said board before they are finally approved by the council; and they shall, within ten days thereafter, make their report thereon, with such recommendations as they may deem expedient. They shall examine and pass upon all plans and specifications relating to such improvements, and on all bids for the work embraced therein; and after the completion of any such work shall examine and report whether the same has been completed according to contract; and no plans or specifications for any such work shall be adopted, bids accepted, contracts awarded, or work accepted for any such improvement until the report of said board in reference to said matters shall have been received by the council, or until after the expiration of ten days after the matter was referred to them. Said board may also originate and suggest public improvements, and prepare and recommend plans therefor, including all matters pertaining to their construction.

Sec. 32. The city council shall have authority, by ordinance or resolution, to order the repair of any sidewalk or curb wall in front of any private property; to order the filling up or draining any property where water is liable to accumulate and become stagnant; to order the proper and permanent connection of sinks and water closets with the public sewers, the removal of privies, and the filling up of cesspools; to order the cutting of weeds and tall grass on private property and on the adjacent sidewalks; to establish, regulate, and control cemeteries; to locate and regulate the management of slaughter pens; and generally to order and control the doing of any work of a sanitary character which may be deemed necessary on or about any premises within the limits of the city of Houston, and to prescribe the time within which the same shall be done. On the passage of any such ordinance or resolution, the same shall be published at least four days in some daily newspaper published in said city; and it shall thereupon be the duty of the owners of the premises on which work of the character named in said ordinance or resolution is ordered to be done, or the owner of the lot or tract of land when not divided into lots, abutting upon the street at the place where the repairing or construction of sidewalks or curb walls is ordered, to comply with the directions and orders contained in such resolution, and perform or cause to be performed on such premises or adjacent to the same the work therein directed to be done, within the period prescribed in said resolution, to the satisfaction of the city engineer or such other officials as may be provided for by the ordinances of said city, in accordance with such instructions

as may, on application, be given by such official, when all needful instructions shall not be contained in the resolution itself. And should any said property owner fail or neglect to comply with the requirements of such resolution before the lapse of the period therein prescribed, within thirty days after his or her attention shall have been called to said resolution by any officer of the city, by mail or otherwise, or within thirty days after the lapse of said period to be prescribed in the said resolution, and after the publication of the same, when such owner or his residence is unknown to the mayor, then the mayor may order the work to be done by some official of the city, who shall keep a correct account of the cost of the same, and the cost and expense of doing such work, when done by the city, together with six per cent in addition thereto as a penalty, shall be a tax and charge against the person or persons owning the lot or tract of land on which such work may be done, or abutting upon the street or highway at the place where such work is done, and a lien and incumbrance upon the land itself; and such tax and charge against said property owner shall be due on completion of the work, and shall be collected promptly by the city assessor and collector, and if not paid within thirty days thereafter, after becoming due, the same may be collected, with six per cent interest per annum, and the lien foreclosed in any court having jurisdiction. An itemized bill, or statement of the cost of the work, when done by the city under the provisions of this section, after being duly sworn to by the officer under whose direction the work has been done, and after being approved by the mayor, shall be prima facie evidence in any court of the performance of the work stated in such bill, at the cost therein stated, and compliance with all the provisions of this act, and that the amount stated is a just charge and tax against the property owner therein named, and a lien upon the property described as shown therein, subject to such correction as to such court shall seem meet and proper.

Sec. 33. The city council is hereby authorized and empowered to take and condemn land and real estate within the corporate limits of said city to the public use for streets, alleys, and highways, and for extending and widening the same; and for public wharves and landing places for steamers and other crafts; for public schools and for public squares, parks, and pleasure grounds. For the condemnation of any land or real estate, the following proceedings shall be had: The city council shall pass a resolution describing by metes and bounds the land to be condemned, stating for what public purpose it is intended to be used, and thereupon the provisions contained in articles 4183 to 4205a, inclusive, of the Revised Civil Statutes of the State of Texas, A. D. 1879, relating to the condemnation of lands by railway companies, shall regulate and control the proceedings had and taken by said city for condemnation purposes, so far as applicable. After the passage of a resolution of the character next above mentioned, and after proceedings have been had thereunder for the condemnation of any real estate, and after the cost of condemning and obtaining title to the land in question shall have been ascertained, it shall be the duty of the mayor to appoint three disinterested and competent persons, whose appointment shall be confirmed by the city council, who shall act as special assessment and apportionment committee. It shall be the duty of said committee to view the neighborhood and premises in question, and under their instructions a map shall be prepared by the city engineer, embracing

the territory in which, in their opinion, land has been or will be benefited or enhanced in value by the improvement for which said condemnation proceedings shall have [been] had. The city engineer shall also prepare, in connection with said map, a roll of ownership, showing the number of lots, blocks, or tracts of land when not divided into lots and blocks, in the said territory above referred to, the name or names of the owner or owners of such lot, block, or tract of land, if known to the said city engineer, and if unknown it shall be so stated, and the area of such lot, part lot, block, or tract of land. Said apportionment committee shall thereupon assess and apportion two-thirds of the entire expenses incurred by the city, or such parts thereof as the city council, in its discretion, may determine, not exceeding two-thirds, in obtaining title to the property condemned, against such owners, according to the benefit conferred or to be derived from the improvement contemplated by such condemnation, taking into account the respective areas and locations of the different tracts of lands, and the distances of the same from the property condemned, which sums thus assessed and carried out on the said roll against the respective lots, blocks, or tracts of land therein named shall be a tax and charge against the person or persons owning the same at the time of the final approval of said roll by the city council, and a lien and encumbrance against the land itself, which tax and charge may be collected and the lien upon the property foreclosed in any court having jurisdiction. The city engineer shall endorse on said roll a certificate in substance as follows: "I certify that the foregoing roll of ownership and assessment sheet is correct," and he shall sign his name to the same; and said apportionment committee shall make and endorse thereon an affidavit in form and substance as follows: "We, the undersigned apportionment committee, do solemnly swear that we have justly, impartially, and to the best of our ability prepared, and caused to be prepared, the above and foregoing assessment roll, and the same is, to the best of our knowledge and belief, correct and fair." It shall thereupon be the duty of the city attorney to examine said roll of ownership, and the same shall not be submitted to the city council for approval until he shall have certified that said roll is in due form, as required by the city charter. Said roll of ownership shall then be deposited with the city secretary, and notice of its filing, calling attention to the fact that a special tax assessment has been made against the property embraced in said roll to pay the cost and expenses of condemning the property, shall be published in some newspaper published in Houston for five successive days; and where the owner or owners of any property embraced in said roll of ownership are unknown, it shall be the duty of the city secretary to send, through the United States mails, written or printed notices, in substance the same as is required to be published; and the same proceedings shall be had in regard to said roll of ownership, and in regard to its approval by the city council, and in regard to corrections and changes being made in same, and in regard to the division of assessments therein named into installments, and the collection of the same by the city, and in regard to all other matters pertinent thereto, as have hereinbefore been provided for in reference to special assessments for streets, sidewalks, sewerage, and drainage improvements, as far applicable; and all the provisions of this act relative to such special assessments shall be equally applicable to the special assessments levied to cover the cost and expense of condemning land, so far

as may be practicable, and the city council of the city of Houston shall pass such ordinances as may be necessary to supply all deficiencies in respect thereto.

Sec. 34. That said city council are hereby authorized, and it is hereby declared to be their duty, in all cases where special tax assessments for public improvements, or improvement certificates issued in payment for the same, which may be declared void by any court of last resort by reason of the want of power or authority to make or issue the same, or by reason of noncompliance with any of the provisions of the charter of said city existing at the time, whether of a jurisdictional character or otherwise, at any time thereafter, to reassess and relevy the amount of such assessment or taxes so declared void, and to collect and authorize the collection of the same in the same manner as though such assessment or certificate had been originally valid. The reassessment or relevy of any general tax or special assessment may be made directly by the city council, or in such mode as to them may seem meet and proper, nor shall any person whatsoever be heard to complain of the manner and form of such reassessment, or of the result thereof, unless he can show substantial injury to himself therefrom accruing, and in such event only to the extent of the injury or loss shown; and the provisions of this section and of the next preceding sections of this act, from section 24 to section 33 inclusive, shall be liberally construed in favor of said city, or in favor of the contractor doing said work, or persons holding under him, to the end that in all cases the payment of both general taxes and special tax assessment may be rigidly and impartially enforced: Provided, that this act shall not validate any certificate heretofore issued, nor shall such certificate be reissued, nor shall any roll of ownership ever be approved for improvements made prior to this act, except contracts now pending.

Sec. 35. If the purchaser at any tax sale, or at any sale under proceedings had to foreclose a tax lien on property sold in the city of Houston for nonpayment of general taxes or special tax assessments by said city, shall fail to acquire a valid title to the property so purchased by him, by reason of any irregularity or defect in the assessment or levy, or for any other reason whatsoever, whether of a jurisdictional character or otherwise, such purchaser shall nevertheless have a lien on the property so purchased for the taxes which would have been due on the same had all proceedings in reference thereto been legal and regular, together with all costs connected therewith; also for all taxes, both general and special, by him subsequently paid on said property, with interest on all of such sums at the rate of eight per cent per annum; and he shall be entitled to judgment for such amounts and for the enforcement of the lien against the owner of said property in the same action wherein the inability [invalidity] of said tax sale or the sale under foreclosure of the tax lien is declared void, together with his costs incurred in such action.

Sec. 36. The city council shall have power and authority to secure the safety and convenience of passing in the streets, sidewalks, and other places in the city, to fix the squaring and to prevent encroachments and obstructions on the streets, sidewalks, squares, ways, levees, public roads and places; to fix the place for the anchoring of water craft on Buffalo bayou; to establish an active system of inspection over the conduct of persons and premises; to prevent cattle, horses, swine, goats, geese, and animals from running at large in the streets or within such

prescribed limits as may be established by the city council; to establish and maintain a city police, prescribe the duties of policemen and regulate their conduct; to provide for lighting the streets by gas, electricity, or other means, and for this purpose may establish gas works or electric works for the manufacture of gas or electricity for the use of the city and the inhabitants thereof at cost price; to determine in what part of the city slaughter houses, bone boilers, soap makers, brick yards, or other establishments of any business which is or may be injurious to the value of adjacent property, or unwholesome or disagreeable to the occupants of adjacent property, shall not be allowed to be carried on or to be erected, and to regulate the same, and provide for the removal of such establishments; to determine in what part of the city wooden buildings shall not be erected; within the limits prescribed, no person shall be permitted to erect such buildings; to prevent gunpowder or other explosive material, kerosene oil or other inflammable oils being stored within the city limits in such quantity as to endanger the safety of adjacent property; to provide means for the protection against and the extinguishment of conflagrations, and for the regulation, maintenance, and support of a fire department; to permit or forbid theaters, balls, or other public amusements, and to suppress the same whenever the preservation of order, tranquility, or public safety may require; to close dram shops, drinking saloons, and other places where intoxicating liquors are sold, and variety theaters, whenever necessary or expedient; to define what shall be a nuisance in said city, and to abate them by summary proceedings; to prohibit the burial of the dead within the limits of the city, and to regulate such burial when allowed; to prohibit and punish keepers and inmates of bawdy houses and variety shows, and to segregate and regulate the same, and to determine such inmates and keepers to be vagrants, and provide the punishment of such persons; to provide a work house for vagrants and disorderly persons who are unable to pay fines, and to make regulations concerning the same; to regulate weights and measures, fix standards of weight and measure, and to fix penalties for not using the same; to provide and keep a city prison; to make all needful and proper regulations concerning bakers, butchers, keepers of taverns, grog shops, and other public houses, draymen, horse drivers, water carriers, omnibus drivers, hack drivers, and drivers of baggage wagons, and especially to preserve order and prevent noise and confusion in and about the several depots on the arrival and departure of railway trains; to prevent extortion by carriers of passengers or baggage, hacks, drays, and all public conveyances by establishing maximum rates of charges; to suppress gambling houses, and to punish keepers of gambling houses, and all persons who play at cards or games of any kind, and to punish persons who sell lottery tickets, or who advertise lottery drawings or schemes and the results of the drawings of lotteries; to direct and control the laying and construction of railroad tracks, turnouts, and switches, and that they be required to be constructed and laid out so as to interfere as little as possible with the ordinary travel and use of the streets; to require railway companies to keep the streets through which they run in repair, and to light the same whenever deemed necessary; to construct and keep in repair bridges and crossings at the intersection of streets and avenues, and over all ditches, sewers, and culverts on the line of the railways; to regulate

the speed of engines and locomotives within the city: and generally to make and establish all rules, regulations, by-laws, and ordinances which may contribute to and promote the better administration of the officers of the said city, as well for the maintenance of the peace, tranquility of said city, and for the protection of the persons and property of its inhabitants. The city council shall also have power to pass ordinances authorizing the destroying of clothing, bedding, furniture, and buildings infected with the germs of any contagious or infectious disease, when in the opinion of the city health officer the public health requires the destruction of the same, and may also, in the same manner, authorize the destruction or removal of buildings or other objects, after the same shall have been declared a nuisance by the city council: Provided, the city shall pay the value of such property to the owners thereof before destroying the same. The city shall have power to enforce the observance of ordinances adopted by the city council, either by imposition of penalties to be collected by civil proceedings in suits brought by the city or by fine and imprisonment, as may be deemed most expedient: Provided, however, that no penalty imposed for the violation of any ordinance shall exceed the sum of two hundred dollars, and there shall be only one recovery had for all acts committed previous to the institution of a suit for the recovery of such penalties; and any person or corporation violating an ordinance of the city of Houston, to enforce the observance of which a penalty may have been imposed in lieu of a fine, shall be liable to the city in a civil suit, brought for the amount of such penalty in either of the justice courts of precinct No. 1 in Harris county, Texas; and it shall be the duty of the city council, within six months after the passage of this charter, to have compiled, printed, and published in book form, convenient of access by all citizens, all the ordinances of the city which may at the time be in force; and all such ordinances not so published shall thereafter become void; nor shall any ordinance hereafter passed take effect or be in force until the same has been published in some newspaper in said city.

Sec. 37. No person shall erect any building or fence in the city without first obtaining a permit from the mayor and having the lines of his property established by the city engineer: Provided, that fences may be constructed on interior lines without such permit, and the lines of property not subdivided into lots or blocks may be established and fences built thereon without such permit; but all permits for building houses or fences shall be issued by the mayor or city engineer free of charge.

Sec. 38. The city council may provide, own, and maintain water works for the use of the city and the inhabitants; and for this purpose may issue and cause to be issued the bonds of the city in such sums as may be requisite and necessary, which bonds shall bear interest at the rate of not exceeding six per cent, and shall not be sold at less than par. The city council, by resolution, shall fix the denomination of such bonds and the date of their maturity: Provided, that no such bonds shall be issued or sold until a plant of sufficient capacity has been contracted for, and then only a sufficient number of bonds shall be issued to cover the actual cost of construction or purchase. In like manner the city council may establish gas works or electric works, or both, in the discretion of the council, and may issue the bonds of the city of Houston in like manner and under

like restrictions as provided in this section for the establishing of water works.

Sec. 39. The city council shall have authority, by ordinance duly passed or enacted, to provide for a system of public free schools and for a public library in the city of Houston, and to this end may make appropriations of the revenues of the city in amounts within the discretion of the council, and may receive donations of books, papers, magazines, periodicals, or other property or money for the benefit of and maintenance of such public library.

Sec. 40. It shall be the duty of the mayor, at the last meeting of the city council held in January of each and every year, to present to the city council a message containing a statement of the financial condition of the city, including an itemized estimate of the cost of maintaining the various departments of the city government for the ensuing year, and the sums of money which, in his opinion, should be appropriated for the maintenance of such respective departments, together with his recommendations in regard to such appropriation, and in regard to the percentage of taxation and amount of occupation tax necessary to be levied for such ensuing year. It shall be the duty of the city council at its first meeting in February of each and every year to appropriate such sums of money respectively for each of the various departments of the city government as said council shall deem necessary for the proper maintenance of the same during the current year. Such current year shall be deemed to begin on the first day of January previous to such meeting, and to end on the 31st day of December next thereafter. Said council at said meeting shall accordingly appropriate a certain sum of money for the use of each of the following departments of said city government, to-wit: Public school department, police department, fire department, street department, bridge [bridge] department, public health department, salaries of officials not included in appropriations for the foregoing departments, public lights, water works, and such other departments as it may be deemed proper to mention, together with an appropriation for the sum deemed necessary to cover all miscellaneous expenses not mentioned under the head of any special department; and it shall be the duty of the city secretary to keep a separate account with each of such departments, and he shall be prepared at every regular meeting of the city council to give information as to the amount expended and the balance remaining to the credit of any department; and no draft shall be drawn upon or paid by the city treasurer unless the same shows on its face to which of said departments the sum of money named in the same should be charged.

Sec. 41. That the council shall have power and authority to establish one or more markets and market places, and within reasonable hours, not later than 10 o'clock daily, to prevent the sale of fresh meats, game, fresh fish, poultry, eggs, vegetables, and such country produce as is usually sold in markets at any place in said city other than said markets and market places so established, and to collect market licenses and privileges; to rent and lease for such length of time as the city council may determine, not exceeding one year, stalls or stands in said market for the sale of the before mentioned articles, and to regulate and fix the prices at which said stands or stalls shall be rented, and to provide for prompt collection of rent of the same, and to pay all expenses of collection thereof, and for properly caring for and keeping in repair the market building, and for

pavement of streets fronting on and adjacent thereto, and for insurance of the same and its contents; and such care, paving, insurance, and general keeping of said market houses shall be paid for out of the revenues collected out of said market houses.

Sec. 42. That the market and market privileges of said city may be let and farmed out annually to the highest bidder, at public outcry, at the market house, after ten days notice of the time, place, and terms shall have been published in one of the city papers, and two copies posted in conspicuous places in said market house. The city council shall, before the day of letting, fix upon the minimum sum at which the market and market privileges may be leased for the ensuing year, and publish the same in the public notices required to be given as herein provided, and all bids below the amount named shall be rejected. At least five days before the day advertised for the letting, the mayor shall cause to be prepared the contract required to be signed by the lessees, and the same shall not in any manner be changed or modified within the five days previous to the letting, and said contract, so prepared, shall be open, at the mayor's office, to the inspection of all parties who may desire to see it. A good bond and securities, to be approved by the city council, shall be required of the lessees, and new additional securities may be required at any time under penalty of forfeiture of contract.

Sec. 43. That the city council may appropriate to such use and purposes as may be deemed advisable such halls and rooms in the upper story of the market house as may not be necessary for public use, and to lease and rent the same from time to time, in the discretion of the council.

Sec. 44. That the city council shall have the power to construct wharves on the banks of Buffalo bayou, within the limits of the corporation, and make such other improvements as may be necessary for the better navigation of said bayou, and for convenience of landing vessels and their cargoes; and to levy contribution upon all such vessels and their cargoes as may land at said wharves, and to demand and collect the same, to defray the expenses of such improvements and repairs.

Sec. 45. That whenever any steamboat or other craft shall sink in the Buffalo bayou above Harrisburg, and the navigation be obstructed thereby, it shall be the duty of the mayor of the city of Houston to appoint three good and discreet commissioners to inspect and examine the same and its condition, and immediately to report, in writing, their opinion, stating whether, in their opinion, the boat or craft sunk can be or is likely to be raised or removed within the space of ten days after their examination; and should they be of opinion that such boat or craft is not likely to be raised so as to open the navigation within twenty days from the time of their examination, then and in that case the mayor and aldermen of the city of Houston may order the removal of such boat or craft so sunk in any manner they shall deem proper, without incurring any penalty for the same.

Sec. 46. That said corporation of the city of Houston is hereby given full power and authority to take such steps to preserve and improve the navigation of the said Buffalo bayou above the town of Harrisburg as they may think proper, and for that purpose they are authorized to levy and collect a tax on all steamboats and other craft running in said bayou to the city of Houston, for the purpose of improving the navigation thereof: Provided, that the power in this section shall not be construed

to give said corporation any jurisdiction or control over said Buffalo bayou or the banks thereof, in any manner, beyond or without the corporate limits of said city, except for the purpose of protecting or improving the navigation of said bayou, and shall not give said corporation jurisdiction or control to prevent or interfere with the construction of any railroad or other bridges, by any company or person, across said bayou in such manner as not to interfere with the navigation of said bayou.

Sec. 47. That the city council, by a vote of the majority of the whole number of aldermen, taken by yeas and nays and entered upon the journal, shall have power to assess, license, and tax hawkers, peddlers, auctioneers, theatrical and other exhibitions, shows, and amusements, billiard tables, nine and ten pin alleys, alleys with any number of pins, public drays, wagons, omnibuses, and carriages, grog shops, tippling houses, and dram shops, beer saloons (whether for the sale of domestic beer or otherwise), and such other trades or occupations not especially mentioned herein as may be taxed by the laws of the State; but no assessment or license tax levied under this section shall exceed one-half the amount levied by the State for the same period on such profession or occupation, and the same may be regulated, levied, and collected in the same manner as said taxes are regulated and collected by the State.

Sec. 48. The city council may continue annually to assess, levy, and collect the special tax provided by ordinance passed by the city council of said city on the 2d day of June, A. D. 1888, for the purpose of paying the interest and principal of the various outstanding bonds issued by the city of Houston, and may by ordinance assess, levy, and collect annually upon all property, real and personal, in the city of Houston not exempt from taxation such additional tax, not exceeding one and one-half per cent ad valorem, as the interest of the city may require, for other purposes. It may also determine when taxes shall be paid by corporations or by individual incorporators, and levy, assess, and collect from each male citizen of the city over the age of twenty-one years an annual poll tax of one dollar. All taxes upon real estate shall be a lien and charge upon the property, which lien may be foreclosed and the tax collected by suit in any court having jurisdiction. All taxes not paid within the time prescribed by the ordinances shall bear interest at the rate of ten per cent per annum. All real and personal property held, owned, or situated in the city of Houston shall be liable for all taxes due by the owners thereof, including taxes on real estate, personal property, and poll tax, and all personal property may be levied upon, seized, and sold by the assessor and collector for any taxes that may be due, without further warrant of authority than the production of his tax roll, which sale, when made, shall convey a perfect title to the purchaser thereof. It shall be the duty of every person owning or holding property in the city of Houston to render to the assessor and collector of taxes at his office in said city, annually, within the time prescribed by the ordinances of said city, a full and complete inventory of all property so owned or held by him, whether real or personal, and to take and subscribe an oath as to the correctness of such inventory, which oath may be administered by the assessor and collector in person or by deputy. All taxes shall be payable at the office of the assessor and collector, and no demand by him be requisite or necessary to enforce the collection thereof by any proceedings

herein prescribed. The assessor and collector shall inventory and assess all property which the owners thereof may fail or refuse or may have failed or refused to inventory and assess for previous year, which inventory and assessment, when so made by him, shall be as valid and effective as if made by the owner thereof.

Sec. 49. That the license tax shall be collected by the assessor and collector of taxes, and shall be paid to that officer in current funds of the United States, by each and every person or firm owning [owing] such license, and before engaging in any trade, profession, business, calling, avocation, or occupation subject to such tax, taking his receipt therefor, which receipt shall entitle him, her, or them to a corresponding license, to be issued by the mayor; and if any person shall engage in any business, calling, avocation, or occupation, which by an ordinance of said city is subject to a license tax, without first having obtained such license, he, she, or they shall be liable to arrest and imprisonment and a fine of ten dollars for each and every day such violation of said ordinance may continue; and this section shall apply to all persons owing license and failing to pay the same; and the city council may make such further regulations as it deems necessary to enforce the provisions of this section and punish the violation thereof.

Sec. 50. That the city council may and shall have full power to provide, by ordinance, for the prompt collection of all taxes levied, assessed, and due or becoming due to said city, and to that end may and shall deem necessary to the levying, laying, imposing, assessing, and collecting of any of said taxes, and to regulate the mode and manner of making out tax lists, and inventories and the appraisement of property thereon, and to prescribe the oath that shall be administered to each person on such rendition of property, and to prescribe how and when property shall thus be rendered, and to fix the duties and define the power of the assessor and collector of taxes. All taxes due by property owners, as appears upon the rolls of said city, and upon the rolls prepared and completed up to the first day of July, 1889, may be collected by suit from delinquents, and foreclosure of the lien thereon in any court having jurisdiction of the same, but no suit shall be brought for taxes assessed after the first day of July, 1889. The city council shall have full power and authority to provide, by ordinance, for the appointment of a board of appraisement, and to regulate their duties, and to provide for notices to be given to tax payers to appear before such appraisers; and all determinations of such appraisers shall be final. The city council shall have full power and authority to provide for seizure by the assessor and collector and sale by him of any personal property for taxes due on personal property, without the necessity of any writ, and such tax roll shall be a sufficient warrant for such seizure and sale by the assessor and collector of taxes. And to provide, by ordinance, that any firm, corporation, or person owing [owning] or controlling property in said city subject to a tax, and failing or refusing to render a list, inventory, or appraisement thereof, verified by affidavits, shall be liable to fine, upon complaint before the recorder, in such sum as such ordinance may provide. The city council shall have full power and authority to pass all ordinances necessary to regulate advertisements and sales by the assessor and collector of property upon which taxes may be unpaid, and to provide for the perpetuation of all proceedings with reference to such

advertisement and sale, and for the execution of titles to purchasers of property at tax sales, and to pass all ordinances necessary to enforce the collection of taxes: Provided, that such ordinances shall allow any person whose real property has been sold for taxes at least one year to redeem the same, by paying such tax and fifty per cent thereon, and all costs of advertisement and sale: And provided further, that any of such proceedings so perpetuated shall be received in evidence in any court, when the titles so conferred by the collector shall be called in question; and the city may become the purchaser of any land sold for taxes, and the deed executed by the assessor and collector shall be prima facie evidence that all the prerequisites of the law have been complied with; and the city, or any other purchaser of property at a tax sale, may sue for and recover such real property after the expiration of the time allowed to redeem the same, and no defense to any suit for such property shall be allowed, unless there first be made a tender, in open court, of the amount of tax for which the same was sold, together with the fifty per cent additional and all costs of sale and cost of suit. At any time after the sale of any property to the city, or to any person, of property for the taxes due thereon, and before the expiration of twelve months after such sale, the city, or such person, as the case may be, may institute suit for the amount of such tax, and for fifty per cent added, and may foreclose the lien existing for such tax that existed in favor of the city at the date of such sale. Nothing but current money of the United States shall be collected or received in payment of taxes and licenses due or hereafter assessed, and scrip which may be issued for pavement of streets and construction of sidewalks, which shall express upon its face the purpose for which it is issued, and coupons and scrip made receivable for taxes on the face thereof, shall not be receivable for all taxes, except the bond tax. The city council shall have power and authority to assess and collect a tax on all vehicles belonging to persons residing in said city, or which may be used for traffic or hire in said city, which shall be known as a wheel tax, and require such owners to obtain a license for such vehicles, and to prescribe a penalty for using any vehicle on the streets of the city without payment of such tax and procuring such license, but such tax shall not exceed two dollars per wheel: And provided, that all such vehicles licensed under the ordinances in force in said city shall not be required to pay such wheel tax. All sums collected for such wheel tax shall be kept separate by the collector of taxes and shall be applied and expended exclusively for the pavement of intersections of streets as provided for herein.

Sec. 51. The city council may, by resolution, provide for the payment of taxes at any time before such taxes shall become due, and may allow interest upon advance payment of taxes at a rate not to exceed six per cent per annum for the time intervening between the time of such payment and the time when such taxes would be due and payable: Provided, that no such resolution shall be passed, nor such interest allowed, except for the purpose of raising money to meet the current expenses of the city for legitimate purposes. Such resolution shall state the amount of money sought to be raised by this means, and when said amount has been received, the assessor and collector shall immediately notify the mayor and city council that the amount called for in the resolution has been received, and the city shall not pay interest on moneys subsequently

paid in for taxes of that year. In receiving moneys for taxes in advance, under the resolution provided for herein, the assessor and collector shall allow the tax payer to retain out of such payment the amount of interest allowed thereon, and shall give his receipt for the whole amount, showing what sum is actually paid in and what sum is allowed as interest on such payment.

Sec. 52. That the said corporation shall not be liable to any person for damages for injuries caused from streets, ways, crossings, bridges, or sidewalks being out of repair from gross negligence of said corporation, unless the same shall have remained so for ten days after special notice, in writing, given to the mayor or street commissioner.

Sec. 53. That it shall not be necessary in any action, suit, or proceedings in which the city of Houston shall be a party that any bond or security shall be given, but all actions, suits, or proceedings shall be conducted as if such bond or security had been given; and in all judicial proceedings it shall be sufficient to plead any ordinance of the city by caption without embodying the entire ordinance in the pleadings, and all printed ordinances or codes of ordinances shall be admitted in evidence in any suit and shall have the same force and effect as the original ordinance. The property, real and personal, belonging to the city, shall not be liable to be sold or appropriated under any writ of execution, nor shall the funds belonging to the city, in the hands of any person, be liable to garnishment, nor shall the city, or any of its officers or agents, be required to answer any writ of garnishment.

Sec. 54. That the following property shall be exempt from taxation to-wit: All lands used exclusively for graveyards, or grounds for burying the dead, except such as are held by any person, company, or corporation with a view to profit or for the purpose of speculation in the sale thereof; all buildings belonging to institutions of purely public charity, together with the lands belonging to and occupied by such institutions not leased or otherwise used with a view to profit, and all moneys and credits appropriated solely to sustaining such institutions, together with such other property as is exempt from taxation by the laws of the State of Texas.

Sec. 55. That no person shall be an incompetent judge, justice, witness, or juror by reason of his being an inhabitant or freeholder in the city of Houston, in any action or proceeding in which said city may be a party interested; and all officers of said city shall be exempt from jury service while holding office.

Sec. 56. That the city council shall annually appoint, by ballot, one person from each ward of the city, who, together with the mayor as president thereof, shall constitute a board of health of the city. The city council may appoint a health physician, and as many health inspectors as they may deem necessary, and shall prescribe by ordinance the powers and duties of the board and its members; and the secretary of the city council shall be clerk of the board of health, and shall keep a record of their proceedings.

Sec. 57. Quarantine, pest houses, etc. That the city council shall have power to take such measures as they deem effectual to prevent the entrance of any pestilential, contagious, or infectious disease into the city; to stop, detain, and examine for that purpose any person coming from any place infected or believed to be infected with such diseases; to establish, maintain, and regulate pest houses or hospitals within the city,

or not exceeding five miles from its bounds; to cause any person who shall be suspected with any disease to be sent to such pest house or hospital; to remove from the city or destroy any furniture, wearing apparel, or property of any kind which shall be suspected of being tainted or infected with pestilence; to prevent persons from infected places coming into the city of Houston, and to adopt any sanitary measure whereby the health of the city may be protected and improved; but said corporation shall not have power or authority to prevent railroad trains and passengers therein from passing through the city, but may regulate the speed of such trains passing through, and prevent their stopping.

Sec. 58. That all works of improvements and public works for said city, the cost of which will exceed the sum of one thousand dollars, shall be let out to the lowest or best bidder, in the discretion of the council, by sealed proposals; and no contract shall be made or entered into until the plans and specifications such work or improvement shall have been prepared and submitted to the council and adopted by it, and an advertisement published in at least four issues of some daily paper published in the city, inviting bids therefor, and stating the time when such sealed proposals will be opened: Provided, that if no bids be received, or those received be rejected by the city council, the city may, in its discretion, proceed to have such work or improvement done under the discretion [direction] of a committee from the membership. City printing and all repairing of bridges or other similar work, of which it is manifestly impossible to make specifications, are not embraced in this requirement. No bids shall be considered unless made in accordance with the plans and specifications, and no allowance for extra work shall ever be made or paid for. The sealed proposals shall be addressed to the city secretary, and shall be opened only in the presence of the city council at a regular meeting. Bond and security, to be fixed and approved by the city council, shall be required of all contractors. The taking of any contract or interest therein, openly or secretly, directly or indirectly, by any officer of the city, shall, ipso facto, work a forfeiture of the contract, and the consideration thereof, and shall create a vacancy in the office held by the party taking the same.

Sec. 59. The city council shall have power and authority to issue bonds for the purpose of funding bonds of the city of a previous issue, and also for street improvements as provided in section 30 of this act, and in addition thereto may also, by a vote of two-thirds of all the aldermen elected, borrow money on the credit of the city for other purposes to an amount not to exceed one hundred thousand dollars in any one year, and issue bonds of the city therefor. To create a debt during any one year exceeding one hundred thousand dollars, exclusive of refunding and street improvement bonds, as above authorized, the question must be submitted to the tax paying voters of the city, and if two-thirds of the votes polled shall be in favor of creating such debt, it shall be lawful for the city council to authorize the issuance of the bonds for the amount named in the resolution or ordinance submitting the question to the voters. No bonds shall be issued drawing more than six per cent per annum interest, and shall be invalid if sold for less than par, and all bonds shall express upon their face the purpose for which they were issued. The ordinance authorizing any bonds to be issued shall also provide a fund to pay the interest and create a sinking fund of at least two per cent

thereon, and said sinking fund shall be invested in bonds of the city, or in United States bonds, and neither said interest nor sinking fund shall be diverted to any other purpose whatever.

Sec. 60. That the city council shall make all necessary regulations concerning elections, and provide for officers to conduct the same, and for the examination and counting of the returns of elections.

Sec. 61. That the general election of officers of the city shall take place on the first Monday in April, 1894, and every two years thereafter, and the present incumbents shall hold over until their successors, elected at the first election, shall qualify. No election of city officers shall be held on the day of State or county elections.

Sec. 62. That an act entitled "An act to consolidate in one act, and amend the several acts incorporating the city of Houston, in Harris county," passed August 2, 1870, and all other acts relative to the incorporation of the city of Houston, in conflict with this act, be and the same are hereby repealed; but all property, actions, rights of action, claims, and demands of every nature and kind whatever vested in said corporation under and by virtue of the said laws hereby repealed, shall vest in and remain and inure to the said corporation, under this act, as fully and completely in all respects as if the said laws had not been repealed; and all by-laws and resolutions and ordinances made and passed under or in pursuance of said laws hereby repealed shall continue and remain in full force and effect until repealed by the proper authorities of said corporation.

Sec. 63. That this act shall be deemed a public act, and judicial notice shall be taken thereof in all courts. No general law hereafter passed by the Legislature of the State shall be held to repeal any power herein granted, or which is now vested in the corporation of Houston, unless the act conferring such power be specially referred to in such repealing act.

Whereas, there are no adequate laws in force providing for the paving, improving and repairing of the streets and sidewalks of the city of Houston, there exists an imperative public necessity for suspending the constitutional rule requiring bills to be read on three several days; and an emergency exists which requires this act to take effect from and after its passage, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 24th day of March, A. D. 1893, but was not signed by him, nor returned to the House in which it originated, with his objection thereto, within the time prescribed by the Constitution, and thereupon became a law without his signature. Geo. W. Smith, Secretary of State.]

[Note.—The foregoing act takes effect ninety days after adjournment.]

EL PASO—AMENDMENT TO CITY CHARTER.

CHAP. 6.—[S. B. No. 262.] An act to amend sections 14, 89, and 93, of an act entitled "An act to grant a new charter to the city of El Paso," approved March 2, 1889.

Section 1. Be it enacted by the Legislature of the State of Texas: That an act entitled "An act to grant a new charter to the city of El Paso,"

approved March 2, 1889, be and the same is hereby amended as follows: That section 14 shall hereafter read as follows:

Section 14. The recorder shall be learned in the law; and the officers and agents of the city, except the aldermen, shall receive for their services such compensation as the city council may ordain. The aldermen shall each receive such a sum, not to exceed five dollars for each session of the city council attended, as the city council may ordain: Provided, that no alderman shall receive in any one year more than the sum of three hundred dollars.

That section 89 shall hereafter read as follows:

Section 89. No bonds shall be issued unless the same shall have been ordered by the city council, at a regular meeting thereof, by the consent of two-thirds of the aldermen elected, nor then until the action of the city council has been ratified by a majority of the qualified voters of the city who pay taxes on property in said city, as shown by the last assessment roll, voting at an election held for the purpose of determining whether or not such bonds shall be issued. All bonds shall specify for what purpose they were issued, and shall not be sold for less than their par value; and when any bonds are issued by the city a fund shall be created to pay the interest and create a sinking fund to redeem the bonds, which fund shall not be diverted nor drawn upon for any other purpose, and the city treasurer shall honor no drafts on said fund except to pay interest upon or redeem the bonds for which it was provided.

That section 93 shall hereafter read as follows:

Section 93. The city council shall have power by ordinance annually to levy and collect taxes to the amount of two per cent on the assessed value of all property, real and personal, in the city, not exempt from taxation by the Constitution and laws of the State, for the purpose of defraying its current municipal expenses, to pay debts heretofore contracted, to pay interest on and create sinking funds for its bonded debt, to construct or acquire water works, gas works, canals, and public buildings, to improve its streets, and make other permanent and public improvements, and for the support of its public free schools: Provided, that no tax shall ever be levied except with the consent of two-thirds of all the aldermen elected, at a regular meeting of the city council.

Sec. 2. This act shall be deemed a public act, and the courts shall take judicial notice hereof at all times and places.

Sec. 3. This act shall take effect and be in force from and after its passage.

Sec. 4. The fact that the city of El Paso must immediately enlarge its system of water works, and make other public improvements, creates an emergency that this act take effect at once; and the near approach of the close of the session creates [an] imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 22d day of March, A. D. 1893, but was not signed by him, nor returned to the house in which it originated, with his objections thereto, within the time prescribed by the Constitution, and thereupon became a law without his signature. Geo. W. Smith, Secretary of State.]

[Note.—The foregoing act takes effect April 2, 1893.]

CHARLES THOMAS SISSON—RELIEF OF.

CHAP. 7.—[S. B. No. 199.] An act for the relief of Charles Thomas Sisson, and making an appropriation therefor.

Whereas, Charles Thomas Sisson enlisted in the service of the State of Texas, under the command of Captain John S. Ford, in the fall of 1858, and served as a soldier in said command for the period of six months, ending in the spring of 1859, under a promise from the State to pay him at the rate of forty dollars per month, for which services the said Charles Thomas Sisson has never been paid, either in whole or in part; and

Whereas, the State of Texas is justly due him the sum of two hundred and forty dollars; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas: That the sum of two hundred and forty dollars be and the same is hereby appropriated out of any money in the State Treasury, not otherwise appropriated, for the payment of said claim; and the Comptroller of the State of Texas is hereby authorized and directed to issue a warrant upon the Treasurer of the State of Texas, in favor of the said Charles Thomas Sisson, for the said sum of two hundred and forty dollars.

Sec. 2. The near approach of the close of the present session, and the crowded condition of the calendar, render it improbable that this bill can be read on three several days in each house, and creates an emergency and an imperative public necessity requiring that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 29th day of March, A. D. 1893, but was not signed by him, nor returned to the house in which it originated, with his objections thereto, within the time prescribed by the Constitution, and thereupon became a law without his signature. Geo. W. Smith, Secretary of State.]

[Note.—The foregoing act takes effect ninety days after adjournment.]

F. L. SCHMID—RELIEF OF.

CHAP. 8.—[S. B. No. 255.] An act for the relief of F. L. Schmid, and making an appropriation therefor.

Whereas, F. L. Schmid enlisted in the service of the State of Texas, serving as a member of Company "D," Frontier Battalion, actively until August 16, 1889; and

Whereas, on said 16th day of August, 1889, while in the discharge of his duty as a State ranger, in Richmond, Fort Bend county, Texas, received a gunshot wound, which wound occasioned him three years sickness, and heavy expense, to-wit, as follows:

Professional services \$205. Nurses \$150. Board and lodging \$140. Drugs, \$16.20. Railway fares, \$73.30. Total, \$584.50.

All of which expense has been borne by him. Therefore,

Section 1. Be it enacted by the Legislature of the State of Texas: That the sum of five hundred and eighty-four dollars and fifty cents (\$584.50) be and the same is hereby appropriated out of any money in the State treasury, not otherwise appropriated, for the payment of said claim, and the Comptroller of the State of Texas is hereby authorized and directed to issue a warrant upon the Treasurer of the State of Texas in favor of said F. L. Schmid for the said sum of \$584.50.

Sec. 2. The crowded condition of the calendar, and the near approach of the close of the session renders it improbable that this bill can be read on three several days, which creates an emergency requiring the suspension of the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 29th day of March, A. D. 1893, but was not signed by him, nor returned to the house in which it originated, with his objections thereto, within the time prescribed by the Constitution, and thereupon became a law without his signature. Geo. W. Smith, Secretary of State.]

[Note.—The foregoing act takes effect April 9, 1893.]

ROADS—CHEROKEE, HOUSTON, ANDERSON, TRINITY,
FRANKLIN, DELTA, HARRISON, PANOLA, UPSHUR, SHEL-
BY, SMITH.

CHAP. 9.—[H. B. No. 594.] An act to create a more efficient road system in the counties of Cherokee, Houston, Anderson, Trinity, Franklin, Delta, Harrison, Panola, Upshur, Shelby, and Smith; and auxiliary thereto, to provide for the appointment of road overseers; to define the powers and jurisdiction of the commissioners courts of said counties with regard thereto; to utilize the labor of defaulting poll tax payers on the public roads of said counties; and to provide adequate penalties for the violation of the provisions of this act.

Section 1. Be it enacted by the Legislature of the State of Texas: That all public roads and highways that have heretofore been laid out and established, agreeably to law, in Cherokee, Houston, Anderson, Trinity, Franklin, Delta, Upshur, and Smith counties, except such as have been discontinued, are hereby declared to be public roads.

Sec. 2. The commissioners courts of Cherokee, Houston, Anderson, Trinity, Franklin, Delta, Upshur, Harrison, Panola, Shelby, and Smith counties shall have full power, and it shall be their duty, to order the laying out and opening of public roads, when necessary, and to discontinue or alter any road, whenever it shall be deemed expedient, as hereinafter prescribed.

Sec. 3. It shall be the duty of the commissioners courts to classify all public roads in said counties into first, second, and third class roads.

Sec. 4. First class roads shall be clear of all obstructions, and not less than forty feet nor more than sixty feet wide; all stumps over six inches in diameter to be cut down to six inches of the surface, and rounded off;

all stumps six inches and under to be cut smooth with the ground; and all causeways made at least sixteen feet wide.

Sec. 5. Second class roads shall be clear of all obstructions, and not less than thirty feet wide. Stumps six inches and over in diameter to be cut down to six inches of the surface, and rounded off, and all stumps less than six inches in diameter to be cut smooth with the ground; all causeways to be made sixteen feet wide.

Sec. 6. Third class roads shall be clear of all obstructions, and not less than twenty feet wide; stumps six inches and over in diameter to be cut down to six inches of the surface, and rounded off, and all stumps less than six inches in diameter to be cut smooth with the ground; all causeways to be made at least sixteen feet wide.

Sec. 7. The commissioners court shall in no instance grant an order on an application for any new road, or to discontinue an original one, unless the person making application therefor, or some one of them, shall have given at least twenty days' notice, by written advertisement, of their intended application, posted up at the court house door of the county and at two other public places in the vicinity of the route of the proposed new road, or the road proposed to be discontinued.

Sec. 8. All applications for a new road, and all applications to discontinue an existing one, shall be by petition to the commissioners court, signed by at least ten freeholders of the precinct or precincts in which said road is desired to be made or discontinued, specifying in such petition the beginning and termination of such road proposed to be opened or discontinued.

Sec. 9. All roads hereafter ordered to be made shall be laid out by a jury of freeholders of the county, to be appointed by the commissioners court. Said jury shall consist of five persons, a majority of whom may proceed to lay out and mark the road so ordered, to the greatest advantage to the public, and with as little prejudice to enclosures as may be.

Sec. 10. The jurors provided for in the preceding section shall, before proceeding to act as such, take the following oath before some officer authorized to administer oaths, to-wit: I, ———, do solemnly swear that I will lay out the road now directed to be laid out, by the order to us directed from the commissioners court, according to law, without favor or affection, malice or hatred, to the best of my skill and knowledge, so help me God.

Sec. 11. It shall be the duty of such jurors, when qualified as provided in the preceding article, to proceed to lay out and mark the road, in accordance with the order of the court and the law, and to report their proceedings in writing to the next regular term of the commissioners court.

Sec. 12. No public road shall be surveyed or laid out upon or across any farm, lot, or enclosure without first obtaining the written consent of the owner or his agent or attorney to the same, except as hereinafter provided.

Sec. 13. If such written consent shall be refused, it shall be the duty of the commissioners court to appoint five disinterested freeholders, residents of the county, as commissioners, a majority of whom may act, to view the same, assess the damages incidental to the opening of the road of the first, second, or third class, through any part of said farm, lot or inclosure, as proposed, taking into consideration the advantages and dis-

advantages accruing to such owner from the opening of such road, and report their action in writing, and under oath, to the next regular term of the commissioners court.

Sec. 14. If the owner of any inclosed land, his agent, or attorney, shall file in the commissioners court a written protest against opening a road, viewed and marked out through such inclosed land, it shall be the duty of the commissioners court to appoint five disinterested freeholders, residents of the county, as commissioners, a majority of whom may act, to view said road, assess the damages, and report in manner and form as provided in the preceding article.

Sec. 15. If, in the judgment of the commissioners court, from the report of the commissioners named in the two preceding sections, the road should be deemed of sufficient importance, the court may order the survey or opening of the same; but the court shall first order the payment of the damages assessed, if any, by the commissioners of view, to be made to the owner of the land, out of the county treasury, and the county treasurer shall have paid the same, or secured its payment, by a special deposit of the amount in his office, subject to the order of such owner, and shall notify such owner by mail or otherwise, of such deposit.

Sec. 16. If no objection be filed, upon the report of a jury appointed upon an application to open a new road, the court shall proceed to establish and classify such road, and order the opening out of the same, and shall appoint an overseer and apportion hands for the same, as in other cases.

Sec. 17. The commissioners court may alter or change the course of any public road, after notice, and upon application in the same manner as provided in this chapter for the discontinuance of a road, except that the application need not be signed by more than one freeholder of the precinct in which such alteration or change is proposed to be made.

Sec. 18. When juries of view are appointed, it shall be the duty of the clerk of the court to make out copies of the order appointing them, in duplicate, and to deliver such copies to the sheriff of the county within ten days after such order of appointment was made, indorsing on such copies the date of such order.

Sec. 19. The sheriff receiving such copies shall serve the same upon the jurors by delivering to each of them, in person, a copy of the order of appointment provided for in the preceding article, or by leaving one of said copies at the usual place of abode of such juror. Service shall be made within twenty days after the sheriff receives said copies, and he shall make his return to the clerk on the duplicate copies, stating the date and manner of service, or, if service has not been made, stating the cause of his failure to make the same.

Sec. 20. Any juror of view, summoned as such, who shall fail or refuse to perform the service required of him by law as such juror, shall forfeit and pay for every such failure the sum of ten dollars, to be recovered by judgment, on motion of the district or county attorney, in the name of the county, in any court of competent jurisdiction of the county in which such defaulter may reside.

Sec. 21. For the further and better providing for public roads, any lines between different persons or owners of land may, upon the condition provided for in the following sections, be declared public highways, and left open and free from all obstructions for ten feet on either side of said

lines; but the marked trees and other objects used to designate said lines, and the corners of surveys, shall not be removed or defaced.

Sec. 22. Whenever ten freeholders may desire the boundary lines between different persons or owners of land to be declared a public highway, in order to give them a nearer, better, or more practicable road to their church, county seat, mill, timber, or water, they may apply to the commissioners court for an order establishing such road.

Sec. 23. The application provided for in the preceding section shall be in writing, and shall be signed and sworn to by the applicants. It shall designate the lines sought to be opened, and the names and residences of the persons or owners to be affected by such proposed road, and shall state the facts which show the necessity for such road.

Sec. 24. Upon the filing of such application, the clerk shall issue a notice reciting the substance thereof, directed to the sheriff or any constable of the county, commanding him to summon the owners of the land, naming them, whose lines are proposed to be left open, to appear at the next regular term of the commissioners court and show cause why said lines should not be declared public highways.

Sec. 25. The notice provided for in the preceding section shall be served in the manner and for the length of time provided for the service of citation in civil actions in justices' courts, and shall be returned in like manner as such citations.

Sec. 26. At a regular term of the court, after due service of notice, as provided in the preceding section, the commissioners court may in its discretion, should it deem the road of sufficient public importance, issue an order declaring the lines designated in the application to be public highways, and direct that the same be opened by the owners thereof, and left open for the space of ten feet on each side of said lines.

Sec. 27. When an order as provided in the preceding section is made, the clerk shall, without delay, issue a notice reciting said order or its substance, directed to the sheriff or any constable of the county, commanding him to serve the owners of such lines named in such notice with a true copy thereof, and the officer to whom said notice is delivered shall, without delay, serve the same as therein directed, and return the same to the clerk, endorsing thereon the manner and date of such service.

Sec. 28. The commissioners court shall not be required to keep any such road as is mentioned in the last seven sections, worked by road hands, as in case of other public roads.

Sec. 29. All costs attending the proceedings provided for in relation to opening neighborhood roads shall be paid by the applicants for any such road, whether their application be granted or not, and may be collected as other costs in civil action.

Sec. 30. The commissioners court may discontinue any neighborhood road which has been established as a public highway in the same manner provided in this act for discontinuing other public roads.

Sec. 31. The owner or owners of the land whose lines have been or may be declared public highways, and also any person through whose land a third class road may run, shall have the right to erect a gate or gates across said road or roads when necessary; said gate or gates to be not less than ten feet wide.

Sec. 32. The amount of damages to be allowed to the owners of said lands for opening the lines of a neighborhood road, as provided in this

act, shall be assessed as provided for in the case of first, second, and third class roads in this act. Said damages to be paid by the applicant or applicants for such road.

Sec. 33. The commissioners courts of Cherokee, Houston, Anderson, Trinity, Franklin, Delta, Upshur, and Smith counties shall lay off the counties into convenient road precincts, and shall number each precinct, and in the order establishing the same shall specify as definitely as practicable the boundaries thereof.

Sec. 34. An overseer shall be appointed by said courts for each road precinct at the time of establishing the same, and at the first regular term of the court in each year the said courts shall appoint an overseer for each road precinct in the county, and shall at the same time designate all the hands liable to work on public roads and apportion them to the several overseers.

Sec. 35. If from any cause the said courts shall fail to perform the duties required of them by the preceding section, at its first regular term in each year, it shall be competent and legal for said court to perform said duties at any subsequent term, whether the same be a regular or called term.

Sec. 36. In case of death, removal or other inability to act of any road overseer, it shall be the duty of the county judges, immediately upon information of the fact, to appoint an overseer to fill such vacancy, who shall be notified of his appointment, as in other cases.

Sec. 37. It shall be the duty of the clerks of said courts to make out copies of all orders appointing overseers of roads, in duplicate, and deliver the same to the sheriff of the county within ten days after such order shall have been made, endorsing on such copies the date of the order of appointment.

Sec. 38. All orders appointing overseers shall embrace the designation of hands liable to work under such overseer, as far as known, and shall specify the boundaries of such overseer's road precinct as laid off by the courts.

Sec. 39. The sheriff shall, within twenty days after the reception of the copies of any order appointing an overseer, deliver to or leave at the usual place of abode of such overseer one of such copies, and shall return the duplicate of such copy to the clerk of the county court, indorsing thereon the date and manner of service, and if not served, the cause of his failure to serve the same.

Sec. 40. The term of service of a road overseer shall be from the time of the service of the order of appointment until the first regular terms of the commissioners courts in the succeeding year.

Sec. 41. No person shall be compelled to serve as an overseer who is lawfully exempt from road duty, nor shall any one be compelled to serve as overseer more than one year in every three successive years.

Sec. 42. It shall be the duty of every person appointed overseer of a road, who is lawfully exempt from duty, to notify the clerks of the county courts of his nonacceptance within ten days after his being notified of his appointment.

Sec. 43. If any person appointed overseer of a road, who is lawfully exempt from road duty, shall notify the clerks of his nonacceptance, as provided for in the preceding section, the clerk shall forthwith report the

same to the county judge, who shall immediately appoint another overseer for said precinct.

Sec. 44. Should any person appointed overseer, and who is lawfully exempt from road duty, fail to notify the clerk of his nonacceptance within ten days after being notified of his appointment, it shall be considered an acceptance of the appointment, and he shall not be permitted thereafter to plead his exemption from road duty as a defense against any neglect or failure to perform any of the duties of such overseer.

Sec. 45. It shall be the duty of the clerks to insert on the copies of all orders of appointment of overseers issued by him, the duties required of overseers in regard to their nonacceptance of such appointment.

Sec. 46. The clerk of the county courts shall post at the court house, on the first day of each term of the district court held in his county, a list of the names, and the road precincts, of all the overseers of roads in the county.

Sec. 47. All male persons between twenty-one and forty-five years of age shall be liable, and it is hereby made their duty, to work on, repair, and clean out the public roads, under the provisions and regulations of this act, except ministers of the gospel actually engaged in the discharge of their ministerial duties, and invalids, and members of any company of voluntary guards organized under the provisions of the title "militia," who shall be exempt.

Sec. 48. No person shall be compelled to work on a road who has not been residing in the county in which he is summoned to work for the space of fifteen days immediately preceding such summons.

Sec. 49. Any person liable to road duty, and who has been summoned to do such duty, shall have the privilege to furnish an able bodied substitute to work in his place, which substitute shall be accepted by the overseer if he be capable of performing a reasonable amount of work; otherwise he shall not be accepted.

Sec. 50. Every person liable to work on roads, by paying to his road overseer, at any time before the day appointed to work on his road, the sum of one dollar for each day that he is summoned to work, shall be exempt from working for each day paid for, and also exempt from any penalties for failure to work for the time for which he has so paid.

Sec. 51. Each person summoned to work on a road shall take with him an axe, hoe, pick, spade, or such tool as may be desired and directed by the overseer; or, if he have no such tool as he is desired and directed by the overseer to take with him, he shall take such other suitable tool as he may have.

Sec. 52. It shall be the duty of such road hand to perform his duties as such as required by law, and to do a reasonable amount of work, and in accordance with the directions of his overseer.

Sec. 53. No person shall be compelled to work on any public road or roads more than ten days in each year.

Sec. 54. Every insolvent poll tax payer, being a resident of the county, and not disqualified or excused by physical infirmity, who shall be indebted to the county on any unpaid county poll tax, and from whom the said poll tax can not be otherwise collected by law, may be permitted to discharge the amount of such unpaid county poll tax in labor upon the public roads of his precinct, at the rate of one dollar per day; and in order to enforce the provisions of this section, the collector of taxes for

the county shall be required, on or before the second Monday in May of each year, to furnish to the several overseers of the counties, the names of all the defaulting poll tax payers, together with the amount of county poll tax due and unpaid by each, for which ex officio service the collector shall be exempt from road duty five days; and it shall be the duty of the overseer, whenever any such person shall have discharged his county poll tax as herein provided, to report the same in his regular reports to the commissioners courts: Provided, that no penalty shall ever be imposed upon poll tax payers for refusal or failure to work upon public roads.

Sec. 55. This act shall be cumulative of all laws of the State on the subject of roads and bridges and employment of county convicts not in conflict herewith, and where not otherwise provided herein such general laws shall apply; but in case of conflict with general laws, this act shall govern; and the courts of the State shall have and take judicial cognizance of this act in the same manner and to the same extent as they are required to know and notice the general laws of the State.

Sec. 56. The vast amount of important business pending, and the fact that the roads of said counties are in a deplorable condition for the want of a more efficient road law, creates an emergency and an imperative public necessity requiring that the constitutional rule requiring bills to be read on three several days be suspended, and it is so enacted, and that this act take effect from and after its passage.

Approved April 19, A. D. 1893.

[Note.—The foregoing act takes effect ninety days after adjournment.]

FORT WORTH—AMENDMENT TO CITY CHARTER.

CHAP. 10.—[H. B. No. 552.] An act to amend sections 2, 3, 4, 24, 30, 37, 55, 64, 78, 80, 81, and 82 of an act entitled "An act to incorporate the city of Fort Worth, and to grant a charter to said city," approved March 20, 1889, and by adding thereto sections 128a and 159b.

Section 1. Be it enacted by the Legislature of the State of Texas: That sections 2, 3, 4, 24, 30, 37, 55, 64, 78, 80, 81, and 82 of the charter of the city of Fort Worth be and the same are hereby amended so as to be and hereafter read as follows, to-wit:

City Limits.

Section 2. That the limits of the said city of Fort Worth shall hereafter be and embrace the territory described in the following boundary lines, to-wit: Beginning at the northwest corner of the A. Gouenant survey, thence south to the northwest bank of the Clear Fork of Trinity River; thence up along the said bank of the Clear Fork to the north line of the J. M. C. Lynch survey; thence west 1450 feet; thence south to the said northwest bank of the Clear Fork of the Trinity River; thence up the northwest bank of said Clear Fork to the south line of the George Shields survey; thence east to the southeast corner of the George Shields survey; thence south along the west line of the S. G. Jennings, Wm. Welch, Peter Rouche and J. N. Ellis surveys to where the south line of a street

on the south of blocks 25, 26, 27, and 28 of Fairmount addition intersects the said west line of the J. N. Ellis survey; thence east on said south line of said street and south line of Jessamine Street, and continuing east in a line with the south line of Jessamine Street to the east line of the M., K. & T. right of way; thence northwardly with the east line of said right of way to the south line of Elmwood Street; thence east along said south line of Elmwood Street to a point $\frac{1}{4}$ of a mile south of the southeast corner of the M. A. Jackson survey; thence north to the southeast corner of the M. A. Jackson survey; continuing north along the east line of the M. A. Jackson and the B. F. Crowley surveys to the northeast corner of the B. F. Crowley survey; thence west along the north line of the B. F. Crowley and R. Briggs surveys to a point $\frac{1}{4}$ of a mile east of the northwest corner of the R. Briggs survey; thence north 1200 feet; thence west to the west bank of the Trinity River; thence up along said west bank to the north line of the M. Baugh survey; thence west to the point of beginning.

Wards.

Section 3. The wards of said city and their boundaries shall be and remain the same as exist at the time of the enactment of this law: Provided, that where extra territory is added by this act that heretofore has not been within the limits of said city of Fort Worth the same shall constitute a portion of the ward next adjoining the territory so added: Provided further, that the city council shall, by a vote of a majority of all aldermen elected, have the power from time to time to divide said city into as many wards as they may deem expedient, either enlarging or reducing the number of wards, and may prescribe and change the boundaries thereof; and to this end the city council, where it may become necessary, shall have the power, by a vote of two-thirds of all aldermen elected, to vacate the office of any alderman in said city by ordinance duly passed by said council; but no such division or change shall be made unless it be done at least six months preceding the general city election next ensuing, at which election the aldermen to be elected under such division or change shall be elected; and said wards so established shall contain as far as practicable an equal number of voters: Provided, that if in redistricting the city a smaller number of wards are established, and there shall be more aldermen in any one ward than it shall be entitled to, all the aldermen in said ward shall determine among themselves by lot which of them shall continue as aldermen of said ward.

Municipal Government Defined.

Section 4. The municipal government of said city shall consist of the city council, composed of the mayor and two aldermen from each ward. A majority of the aldermen shall constitute a quorum of the council for the transaction of business, except at called meetings or meetings for the imposition of taxes, when two-thirds of the aldermen shall be required. A two-thirds vote of all the aldermen elected shall be required in the levy of all taxes and issuance of bonds in said city.

Veto Power of Mayor, Etc.

Section 24. All ordinances, resolutions, motions, orders, and contracts adopted by the city council shall, before they take effect, be placed in the office of the city secretary, and if the mayor approves thereof he shall sign the same, and such as he shall not sign he shall return to the city council with his objections thereto. Upon the return of any ordinance, resolution, motion, order of [or] contract by the mayor, the vote by which same was passed shall be reconsidered; and if after reconsideration two-thirds of the whole number of aldermen present agree to pass same, and enter their votes on the journal of the proceedings, it shall be in force from that time, or after publication, or time expressed for taking effect, as the case may be; and if the mayor shall neglect to approve or object to any proceedings for a longer period than three days after the same shall be placed in the secretary's office as aforesaid, the same shall go into effect from that time, or after publication, or time expressed for taking effect, as the case may be.

City Judge's Salary.

Section 30. The city judge shall receive a salary not exceeding \$1200 per year, to be fixed by the city council, as hereinafter provided, payable in monthly installments.

Powers and Duties of City Attorney, Etc.

Section 37. The city attorney shall represent the city of Fort Worth in all cases now pending or hereafter to be brought in any court in favor of or against said city. He shall attend all meetings of the city council, and give his advice and counsel when called upon to do so. He shall give his opinion upon all legal questions concerning the city. He shall aid, when requested, in drawing and digesting all ordinances; resolutions, regulations, charters, and amended charters, and he shall render such other professional services as the council may require. He shall have the power to administer oaths in any matter pertaining to the duties of his office. He may appoint a deputy, to be paid by himself, subject to the approval of the city council, to represent him in the city court. He shall receive a salary of twenty-five hundred dollars per annum from and after the passage of this act, payable in monthly installments. The council may, when it deems it necessary, employ counsel to assist the city attorney in any matter or suit affecting the city, and may pay him such compensation as may be agreed upon. The city attorney shall give such bond as the city council may require.

May Punish Vagrants, Etc.

Section 64. To regulate, restrain, and punish vagrants, mendicants, street beggars, and prostitutes.

May Control, Etc., the Laying of Railroad Tracks, Etc.

Section 80. To direct and control the laying and construction of railroad tracks, turnouts, and switches, or prohibit the same, in the streets, avenues, and alleys, unless the same shall be authorized by law, and

cause the same to be built, and repaired or changed, in such manner as may be deemed fit for the safety and convenience of the city and public; to require that railroad tracks, turnouts, and switches shall be so constructed as to interfere as little as possible with the ordinary travel and use of streets, avenues, and alleys, and that sufficient space be left on either side of said tracks for safe and convenient passage of teams, carriages, and other vehicles and persons; to require railroad companies to keep in repair the streets, avenues, or alleys through which their tracks may run, and, if ordered by the city council, to construct and keep in repair suitable crossings at the intersections of streets, avenues, alleys, ditches, sewers, and culverts, when the city council shall deem it necessary; and to regulate or prohibit the blowing of locomotive whistles within the city; and regulate the speed of locomotive engines in said city: Provided, that the provisions of this article shall apply to steam railroads, and not to city street or horse railroads.

May Regulate Construction, Repairs, and Operation of Street Railroads.

Section 81. The city council shall have power to compel horse railroads, or other city street railroad companies, to keep their roads in repair, and to make them conform to the grades of the streets upon which their tracks may be laid, whenever said streets shall have been graded by the city, and to restrain the rate of speed so as not to exceed seven miles per hour, and to compel said city railroad to supply ample accommodations for the safe and convenient travel of the people on the streets where their tracks may run, and to compel said city railroads to furnish safe, comfortable, and convenient cars for the transportation of passengers; to declare their franchises forfeited upon the noncompliance by said companies with the ordinances of the city, or the conditions or agreements [under] which such franchises were granted, to forthwith remove or cause to be removed their tracks from any of the streets of the city; to compel street railway companies to permit other companies to use their tracks for the purpose of traffic thereon, for a distance not exceeding three hundred feet, when in the discretion of the city council it may be deemed necessary to the use and convenience of the city and the traveling public: Provided, that the provisions as to use of tracks shall apply to tracks now existing around the court house square for their entire length or width. The city council may enforce these regulations by proper ordinances, with suitable penalties for any violation of said ordinances.

Section 82. The city council shall have the exclusive control and regulation of all streets, alleys, and public grounds, and power to abate and remove encroachment in a summary manner; to permit, prevent, and regulate the laying of gas and water mains, and the erection of telegraph, telephone, and electric light poles; to impose such terms as they may deem proper for the use of streets and sidewalks, and to demand and collect for the use of same such compensation as to the city council may seem proper.

Sec. 2. That the charter of the city of Fort Worth be and the same is hereby amended by adding thereto sections 128a and 159b.

Control of Streams, Etc.

Section 128a. The city council shall have authority to control and regulate the use of all streams of water within three miles of the limits of said city.

Demand as Condition Precedent to Suits Against the City.

Section 159b. Before the city of Fort Worth shall be liable for any damage of any kind, such person, or some one in his behalf, shall give the city council notice, in writing, of such injury within thirty days after the same shall have been received, stating in such notice when and how the injury occurred, and the extent thereof.

Sec. 3. That all laws in conflict with the provisions of this act be and the same are hereby repealed.

Sec. 4. Whereas it is of great importance that the city of Fort Worth shall have the power to secure better government of said city, an emergency exist requiring the constitutional rule requiring bills to be read on three several days be suspended, and that this bill be placed upon its third reading and final passage; therefore an emergency and a great public necessity exists that this act take effect and be in force from and after its passage, and it is so enacted.

Approved May 11, A. D. 1893.

[Note.—The foregoing act takes effect May 11, 1893.]

ROADS—GUADALUPE COUNTY.

CHAP. 11.—[H. B. No. 657.] An act to create a more efficient road system in the county of Guadalupe; and auxiliary thereto, to provide for the appointment of road overseers, to define the powers and jurisdiction of the commissioners court with regard thereto, to utilize the labor of county convicts and defaulting poll tax payers on the public roads of said county, and to provide adequate penalties for the violation of the provisions of this act.

Section 1. Be it enacted by the Legislature of the State of Texas: That the commissioners court of Guadalupe county may appoint a road overseer for each commissioner's precinct in the county, or for each justice's precinct, who shall hold their offices for two years, and until their successors are qualified.

Sec. 2. The overseers so appointed shall perform all the duties required of overseers, under the general laws of this State, and such other duties as may be required of them by the commissioners court of said county, and shall receive such compensation as the commissioners court may prescribe, not [to] exceed two dollars per day for the time actually engaged.

Sec. 3. Each overseer shall, within twenty days after his appointment, take the constitutional oath, and enter into bond payable to the county judge, in such sum as may be fixed by the commissioners court, to be approved by the county judge, conditioned that he will well and faithfully discharge all of the duties incumbent upon him as such overseer, that he will promptly make all reports required of him by this act, or by the commissioners court, and that he will correctly disburse and account

for all funds that may come into his hands according to law and the orders of the commissioners court, which bond shall not be void for want of form, or void on the first recovery, but may be sued upon until fully exhausted.

Sec. 4. The commissioners court may, for good cause, to be determined by themselves, at any time remove an overseer, and in case of vacancy from any cause, may fill the same for the unexpired term.

Sec. 5. Each overseer shall take charge of all tools, implements, teams, and supplies of any kind placed under his control by the commissioners court, and execute his receipt therefor, which shall be filed with the county clerk, and he shall be responsible for all such tools, teams, implements, and supplies, and for the proper expenditure of all public moneys coming into his hands, and shall be liable for the loss, injury, or destruction of all such tools, teams, implements, and supplies, if the result of his negligence, or for the wrongful or unauthorized expenditure of such money; and upon the expiration of his term, or in case of his resignation or removal, he shall deliver all such money and property to his successor, or to such person as the commissioners court may direct.

Sec. 5a. The overseer of each precinct shall subdivide his precinct into as many sections as may be necessary or convenient, and shall require each person subject to road duty in his precinct to work upon the roads in the particular section in which he resides; and in order to have all road work more promptly and vigorously prosecuted, the overseer may appoint suboverseers in the several sections of his precinct, but the overseer himself shall exercise at all times a supervision over the different sections and suboverseers, and shall plan and direct all work to be done, and may require the suboverseers to warn all road hands subject to duty of the time and place of working, as is required by existing laws.

Sec. 6. The commissioners court shall require all able-bodied county convicts, not otherwise more profitably employed, to labor upon the public roads of the county, or upon the public streets of some city or town in the county, under such regulations as may be prescribed, and each convict so employed shall receive credit, first, upon the fine, and then upon the cost, of fifty cents per day for each day he may labor: Provided, that no convict shall be required to labor on Sunday, but shall, nevertheless, have the same credit as if he had labored on that day.

Sec. 7. The commissioners court may, at any regular term, allow the officers and witnesses in a convict case, where the convict is worked upon the roads, such portions of their lawful costs as it may determine, not to exceed, in any case, the following: County judges, \$2.50; county attorneys, \$5, including commissions; county clerks and justices of the peace, \$2; sheriffs and constables, \$2.50; witnesses, twenty-five per cent of their legal fees; which allowance shall be paid out of the road and bridge fund, upon the warrant of the county judge, when said fine and cost shall have been worked out by the convicts, as provided in this act. The commissioners court may provide the necessary houses, prisons, food, clothing, bedding, medicine, medical attention, and guards necessary for the safe keeping and humane treatment of such convicts, and may grant a reasonable commutation of time to a convict, in consideration of faithful service and good behavior, such commutation in no case to exceed one-tenth of the entire time.

Sec. 8. The overseers may contract with any person subject to road

duty in their precinct for the use of wagons and teams, and permit such person to discharge his road service in the hire of such wagon and team: Provided, he shall not allow more than \$2 per day for any wagon and team; nor more than \$3 per day for wagon and team and driver.

Sec. 9. It shall be the duty of each overseer to see that all roads, bridges, culverts, and drains in his precinct are kept in good repair; to see that every person subject to road duty in his precinct performs the service for which he is liable under the law, or that such service is in some way excused or commuted, as provided by law; to see that all mile posts and guide boards at the forks of roads are kept continuously up, and in good order, and when the same are removed or defaced, to immediately repair or replace them. He shall act as supervisor of roads in his precinct, and perform all duties as supervisor heretofore devolving upon the county commissioners, and the county commissioners of said county are hereby delivered from the duties prescribed by article 4390a of the Revised Civil Statutes.

Sec. 10. Each able-bodied male person, between the ages of twenty-one and forty-five years, resident of the county, except such persons as are exempt from road duty under the general laws of the State, shall be liable to labor on the public roads: Provided, that any one so liable may discharge said liability:

1. By furnishing a substitute who is acceptable to the overseer.
2. By paying to the overseer the sum of one dollar for each day he may be summoned to work, or by paying four dollars at any one time shall be discharged from all liability for the entire year, to end on December 31 of each year.
3. By producing to the overseer the certificate of a reputable practicing physician, certifying that the party is permanently or temporarily incapacitated for such physical labor as is necessary for road service.
4. By substituting wagons and teams, suitable and satisfactory to the road overseer, as provided in section 8 of this act.

Sec. 11. Every insolvent poll taxpayer, being resident of the county, who shall be indebted to the county on any unpaid county poll tax, and from whom the said poll tax can not be otherwise collected by law, shall be permitted to discharge the amount of such unpaid county poll tax in labor upon the public roads of his precinct, at the rate of one dollar per day; and in order to enforce the provisions of this section, the collector of taxes for the county shall be required on or before the second ——— in February of every year, to furnish to the several overseers of the county the names of all the defaulting poll taxpayers, together with the amount of county poll tax due and unpaid by each, for which ex officio services the collector shall be exempt from road duty; and it shall be the duty of the overseer, whenever any such person shall have discharged his county poll tax, as herein provided, to report the same back to collector, who shall credit the party on the poll tax roll, and report the same in his regular report to the commissioners court: Provided, that no fine or penalties shall be recovered of insolvent poll taxpayers for failure to work out their poll tax under the provisions of this act.

Sec. 12. Each road overseer shall make his report under oath to the commissioners court, every six months, giving an itemized statement of all money belonging to the road fund, which he has received, from whom received, and for what, and what disposition he made of the same; the

condition of all the roads, bridges, culverts, and drains; the number and character of all mile posts and guide boards erected, and where the same are located; and such other information as the commissioners court may require, and may accompany said report with such suggestions as may seem to him pertinent, in regard to the public roads and the duties of the office.

Sec. 13. Any road overseer who shall willfully or negligently fail or refuse to comply with any provision of this act, or to perform any lawful and reasonable order of the commissioners court, or to discharge any duty imposed upon him by this act, or by any other existing law of the State not in conflict herewith, shall be deemed guilty of a misdemeanor, and on conviction thereof, in a court of competent jurisdiction, shall be punished by a fine of not less than ten nor more than one hundred dollars, such fine, when collected, to go into the road and bridge fund.

Sec. 14. Whenever it shall be necessary to occupy any private lands for the purpose of opening, widening, straightening, or draining any public road, or part thereof, if the owner of such land and the commissioners court can not agree upon the amount of damages to be paid, the county may proceed to condemn the same, in the same manner that a railway company can condemn land for right of way, and the same proceedings may be had and the same rights shall exist to each party as would exist if the proceedings were by a railroad company, except that the county shall in no case be required to give bond either for cost or on appeal.

Sec. 15. This act shall be cumulative of all general laws of the State on the subject of roads and bridges and employment of county convicts not in conflict herewith, and where not otherwise provided herein, such general laws shall apply, but in case of conflict with general laws, this act shall govern, and the courts of the State shall have and take judicial cognizance of this act in the same manner and to the same extent as they are required to know and notice the general laws of the State.

Sec. 16. The vast amount of important business pending, and the fact that the roads of said county are in a deplorable condition for the want of a more efficient road law, creates an emergency, and an imperative public necessity exists that the constitutional rule requiring bills to be read on three several days be suspended and that this act take effect from and after its passage, and it is so enacted.

Approved April 28, A. D. 1893.

[Note.—The foregoing act takes effect ninety days after adjournment.]

ROADS—NACOGDOCHES COUNTY.

CHAP. 12.—[H. B. No. 647.] An act to authorize the commissioners court of Nacogdoches county to lay out and condemn land for right of way, and to establish and maintain a first class road around Orton's Hill, in Nacogdoches county.

Section 1. Be it enacted by the Legislature of the State of Texas: That the commissioners court of Nacogdoches county shall have the power to lay out and condemn land for right of way, and establish and maintain a first class public road, leading from the corporate limits of the town of

Nacogdoches, in said county, around a steep hill, known as Orton's Hill, in the direction of the town of San Augustine, in San Augustine county, and to intersect the main public road leading from said town of Nacogdoches to the town of San Augustine at a suitable point, after passing around said hill.

Sec. 2. That said commissioners court shall proceed to lay out said road, and condemn sufficient land for a right of way over same, and to establish and maintain said road in the manner prescribed under the general road law of this State.

Sec. 3. Whereas, the near approach of the close of the session of the Legislature, and the great number of bills now pending make it doubtful whether this bill will be reached, and that there is now no adequate law authorizing said court to lay out and condemn land for right of way to establish and maintain said road, therefore an imperative public necessity exists for the suspension of the constitutional rule requiring bills to be read on three several days and said rule is suspended; and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 18th day of April, A. D. 1893, but was not signed by him, nor returned to the house in which it originated, with his objections thereto, within the time prescribed by the Constitution, and thereupon became a law without his signature. Geo. W. Smith, Secretary of State.]

[Note.—The foregoing act takes effect April 29, 1893.]

ROADS—CAMERON, HARRIS, FAYETTE, DALLAS, BRAZOS, CORYELL, BEXAR, ROCKWALL, AND ELLIS COUNTIES.

CHAP. 13.—[H. B. No. 682.] An act to authorize and create a more efficient system of public roads and bridges for Cameron, Harris, Fayette, Dallas, Brazos, Coryell, Bexar, Rockwall, and Ellis counties, for the issuance of bonds by said counties for the purpose of constructing permanent public roads, to authorize the investment of the permanent school fund of the State and of said counties in such bonds, to provide for and limit the expenditure of the moneys arising from the sale of such bonds, and to prescribe and define the powers and duties of the commissioners court in reference thereto.

Section 1. Be it enacted by the Legislature of the State of Texas: That the county commissioners courts of Cameron, Harris, Fayette, Dallas, Rockwall, Brazos, Coryell, Bexar, and Ellis counties, State of Texas, may, as hereinafter provided, build or construct, or cause to be built or constructed, in said counties, lasting or permanent county roads and bridges, of some permanent or durable material, to be selected and agreed upon by said commissioners courts, and may also construct drains or ditches to carry off the waters from such road or roads, and from lands adjacent thereto, whenever and wherever same can be done without conflicting with the rights of private property owners, and may take and condemn any land or lands necessary for the purpose of constructing roads or drains under its general powers of eminent domain.

Sec. 2. Whenever the commissioners courts of said counties shall deem it necessary or expedient to build or construct any public roads and bridges

of the character herein provided for, they shall pass a resolution, which may be done at any regular or special meeting of said courts, setting forth that it is the sense of the said commissioners court that public roads and bridges of a lasting or permanent nature should be constructed or built in said county, and that the county should issue its bonds to raise money for that purpose. Said resolution shall be submitted to a vote of the property owners of said counties at any regular or special election, which may be ordered by the commissioners court for that purpose; and if at such election, a majority of the votes cast shall be for said resolution, the same shall be adopted, but if a majority of votes cast at such election shall be against said resolution it shall be rejected. Such election shall be governed in all respects by the laws governing elections in this State, and the returns shall be made and canvassed in the same manner, and result declared by proclamation of the county judge, which proclamation shall be posted in at least three public places in said counties, and at the option of the commissioners court published in some newspaper in said counties.

Sec. 3. No person shall be permitted to vote at any election as provided for in section 2 of this article, unless he is a property owner and taxpayer in said counties of Harris, Fayette, Cameron, Dallas, Rockwall, Brazos, Coryell, Bexar, or Ellis, and unless he is otherwise a qualified voter of said county. Those desiring to vote for the resolution shall have written or printed on their tickets the words, "For the resolution to issue bonds to build permanent county roads and bridges," and those desiring to vote against the resolution shall have written or printed on their tickets the words, "Against the resolution to issue bonds to build permanent county roads and bridges." Such tickets shall be written or printed on plain white paper with black ink, and shall contain no distinguishing mark or device, except the words above set out, and if printed, shall be in type of uniform size and face.

Sec. 4. If, at the election herein provided for, a majority of the qualified voters at such election shall vote in favor of the resolution provided for in section 2 of the act, and after the commissioners court has canvassed the said vote and declared the result, and after the proclamation of the county judge declaring said result has been posted for at least thirty days, it shall be the duty of the county commissioners court, under the supervision and direction of the Comptroller of this State, to prepare and execute the bonds of the county for such sums as may be deemed advisable by said commissioners courts, said bonds to bear not exceeding five per cent interest, payable annually, and which shall be redeemable in not less than ten years and not more than forty years from the date thereof, the maturity to be expressed on the face of the bonds, and shall have the same registered or enrolled, as in the case of other county bonds, and the same shall not be sold or negotiated at less than their face or par value: Provided, that in no case shall said county issue bonds under this act for a greater sum or amount than a levy of fifteen cents on the hundred dollars property valuation of such county will yield sufficient revenue to pay the interest as it accrues, and will at the same time create a sinking fund sufficient to pay the principal at maturity.

Sec. 5. When the bonds of the county are issued and sold under the provisions of this act, it shall be the duty of the county commissioners court of said county to levy an annual ad valorem tax on all property of the county, which tax, when collected, shall be used only for the pur-

pose of paying the interest on the county road and bridge bonds, and create a sinking fund to pay the principal of same; and after the adoption of the resolution as herein provided for, it shall be unlawful for the county commissioners court to transfer any funds from the road and bridge fund to any other fund of said county, or to divert the funds arising from the sale of such bonds, or any funds that may be derived from the road and bridge tax of said county, to any other purpose than the construction and maintenance of county roads and bridges. Should the commissioners court of said counties divert any funds contrary to the provisions of this act, they and each member of said court so acting or voting shall be deemed guilty of malfeasance in office, and on conviction shall be punished by a fine of two hundred dollars, and may be removed from office.

Sec. 6. Whenever there shall be or remain in the treasury of this State any moneys to the credit of the permanent school fund, uninvested, the State Board of Education is authorized and empowered to lend the same to said county, when it shall have complied with the foregoing provisions of this act, by purchasing at par value the permanent road and bridge bonds of said county, when satisfactory evidence is presented to said board that all the provisions of this act have been complied with. And the State Board of Education shall have the preference to purchase said permanent road and bridge bonds, when there is sufficient permanent school funds in the treasury, and they are satisfied that all requirements of law in reference to the issuing of said bonds have been complied with. Should there not be sufficient money in the treasury to the credit of the permanent school funds to purchase the whole issue of such county road and bridge bonds, then the State Board of Education may purchase said bonds to the extent of the funds on hand, or the county commissioners court may, at their option, place said issue of bonds elsewhere, as to them may seem best for the interest of the county; and in like manner, the county permanent school fund may be invested in such county bonds, and whenever said county shall have on hand permanent school funds uninvested, said county shall have the preference to invest said funds in the road and bridge bonds of said county.

Sec. 7. The moneys arising from the sale of the bonds herein provided for shall not be used for any other purpose than the construction of durable and permanent county roads and bridges, and the purchase of material therefor, and any county commissioners court, or any county commissioner, or any other person, who shall misapply or convert same or any part thereof to any other purpose than the one named, shall be deemed guilty of malfeasance in office, and on conviction shall be punished as hereinbefore provided for that offense.

Sec. 8. All roads and bridges built under the provisions of this act shall be laid out and constructed under the supervision of the county commissioners court, and a competent civil engineer, the county surveyor, or other competent person, to be employed by the county for that purpose.

Sec. 9. That all laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

Sec. 10. The great importance to the counties of Cameron, Harris, Fayette, Dallas, Rockwall, Coryell, Bexar, and Ellis of the passage of this act, and the near approach of the close of the present session of the

Legislature, and the crowded condition of the calendar, create an emergency and an imperative public necessity requiring the suspension of the constitutional rule requiring bills to be read on three several days in each house be suspended, and said rule is so suspended; and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 18th day of April, A. D. 1893, but was not signed by him, nor returned to the house in which it originated, with his objections thereto, within the time prescribed by the Constitution, and thereupon became a law without his signature. Geo. W. Smith, Secretary of State.]

[Note.—The foregoing act takes effect ninety days after adjournment.]

ROADS—COLLIN, GRAYSON, WILLIAMSON, LAMAR, AND BELL COUNTIES.

CHAP. 14.—[H. B. No. 351.] An act to create a more efficient road system for Collin, Grayson, Williamson, Lamar, and Bell counties, in the State of Texas, and making county commissioners of said counties ex officio road commissioners, and prescribing their duties as such, and providing for their compensation as road commissioners, and providing for the appointment of deputy road commissioners and defining the powers and duties of the commissioners court of said counties, and to provide for the manner of training hedges along any public road, and fixing a penalty for the violation of this act, and to repeal all laws in conflict with this act.

Section 1. Be it enacted by the Legislature of the State of Texas: That each member of the commissioners court of Collin, Grayson, Williamson, Lamar, and Bell counties shall be ex officio road commissioners of their respective districts, and under the direction of the commissioners court shall have charge of all the teams, tools, and machinery belonging to the county, and placed in their hands by said court; and it shall be their duty, under such rules and regulations as the commissioners court may prescribe, to superintend the laying out of new roads, the making or changing of roads, and the building of bridges. Each of said commissioners shall, before entering upon the duties of their office, execute a bond of one thousand dollars, with two or more good and sufficient sureties, payable to the county judge of said county for the use and benefit of the road and bridge fund, conditioned that they will perform all the duties required of them by law or by the commissioners court, and that they will account for all money or property belonging to the county that may come into their possession: Provided, that with the consent of the commissioners court any one of said commissioners shall be allowed to appoint any competent person as deputy road commissioner, who shall be required to execute the same bond that is required of commissioners in this section; and such deputy road commissioners shall be entitled to the same compensation that is allowed county commissioners for the same service: Provided, that county commissioners shall not be allowed any compensation as road commissioners when a deputy road commissioner has been appointed.

Sec. 2. The commissioners court of said counties shall have full power

and authority, and it shall be their duty, to adopt such system for working, laying out, draining, and repairing the public roads in said counties as they may deem best, and from time to time said court may change its plans or system of working. Said commissioners court shall have power to purchase such teams, tools, and machinery as may be necessary for the workings of its roads. Said court shall have the power to construct, grade, or otherwise improve any road or bridge by contract. In such case said court, or the county judge, may advertise, in such manner as said court may determine, for bids to do such work, and the contract shall be awarded to the lowest responsible bidder, who shall enter into bond, payable to the county judge of said county, for the use of the road and bridge fund, with good, sufficient sureties, to be approved by said court, and in such sum as said court may determine, for the faithful compliance with the terms of said contract, but said court shall have the right to reject any and all bids. At the time of making any such contract the court shall direct the county treasurer to pass the amount to a particular fund for that purpose, and the treasurer shall keep a separate account of such fund, and the same shall not be used for any other purposes, and can only be paid out on the order of said court; and the said court shall have authority to employ any hands or teams to work on the roads, under such regulations and for such price as they may deem best.

Sec. 3. The commissioners court of said counties shall require all county convicts, not otherwise employed, to labor upon the public roads, under such regulations as it may prescribe, and each convict so worked shall receive a credit of fifty cents on his fine first, and then on the cost, for each day he may labor. The commissioners court may, at a regular term, allow to the officers and witnesses such amount of their cost for the arrest and conviction of said convicts as it may deem best: Provided, that it shall not allow to any officer an amount greater than the following: County judge, \$3.00; county attorney, \$5.00, including commissions; county clerks and justices of the peace, \$1.70; sheriffs or constables, \$2.00; which amount shall be paid to the officers out of the road and bridge fund, on the warrant of the county judge, when said fine and costs shall have been worked out as provided in this section: Provided, that this shall not be construed as to relieve any convict from the payment of all costs for which he would be liable under the general laws of this State. The commissioners court may grant a reasonable commutation of time for which a convict is committed, as a reward for faithful services and good behavior: Provided, that such commutation shall in no case exceed one-tenth of the whole time. The commissioners court may provide the necessary houses, prisons, clothing, bedding, food, medicine, medical attention, and guards, for the safe and humane keeping of the convicts.

Sec. 4. Each county commissioner shall have control of all road overseers in his district, and shall deliver to each of them all teams, tools, and machinery necessary in working the roads in the district of said overseer, so far as he has been supplied therewith by the commissioners court, taking receipt of said road overseer therefor, specifying each item and giving its value, which receipt shall be a full answer of the liability of the commissioner, and shall fix the liability of the overseer; and any commissioner or overseer who shall have been entrusted with any team, tools, or machinery belonging to said county, shall be liable for any damages that may occur to the same while in his possession. It shall be the duty

of the road overseer, when he has finished work on his road, to return to said commissioner all teams, tools, and machinery received from him, and to take up the receipt given therefor.

Sec. 5. It shall be the duty of the county commissioner, when acting as road commissioner, to inform himself of the condition of the public roads in his district, and shall determine what character of work shall be done upon said roads, and shall direct the manner of grading, draining, or otherwise improving the same, which directions shall be observed and obeyed by all road overseers of his district.

Sec. 6. The commissioners may require each road overseer in his district to call out the hands in such numbers as may be sufficient to perform the work, but no road hand shall be required to work exceeding five days in any one year, unless the term of service as prescribed by the general laws shall be extended beyond that time: And provided, that all road hands in a particular district shall, as far as practicable, be worked a uniform time. Each road overseer shall have full control of all road hands within his road district, and he shall see that each hand, when called out, shall perform a good day's work; and if any hand, when so called out, shall fail or refuse to perform a good day's work, or to work in the manner the overseer may direct, he shall be liable to the same penalty as if he had failed to appear in obedience to the summons. The commissioners court may allow to any overseer who shall be engaged in the discharge of the duties of his office for more than five days during any one year, a compensation, not to exceed one dollar and one-half per day, for the time so served.

Sec. 7. Any citizen of Collin, Grayson, Lamar, Williamson, and Bell counties, liable for road duty, who shall, on or before the first day of January of any year, pay to the county treasurer the sum of \$3, shall be exempt from road duty for such year, beginning on the first day of January. The treasurer shall receive and receipt for all money so paid him, and place the same to the credit of the road and bridge fund, and he shall keep a separate account for each road district from which it is received. The treasurer shall, on the third day of January, or as soon thereafter as practicable, furnish to each county commissioner a list of all persons in their respective districts that have paid said sum as provided in this section.

Sec. 8. Whenever it shall be necessary to occupy any land for the purpose of opening, widening, straightening, or draining any road or part thereof, if the owner of such land and the county commissioners court can not agree upon the damage to be paid, the county may proceed to condemn the same in the same manner that a railroad company can condemn land for right of way, and the same proceedings may be had, and the same rights shall exist to each party as would exist if the proceedings were by a railroad company, except that the county shall in no case be required to give bond.

Sec. 9. Every owner of a farm or other lands, upon which a hedge of any description grows on or near the public road, shall be required to keep the same trimmed so that the height of the same shall not exceed eight feet above the level of the ground. Any such owner who shall fail or neglect to so trim such hedge, shall be notified in writing by the road overseer of that district to trim such hedge as herein required; and in such case [if] such owner shall, after receiving such notice fail or refuse to so trim

such hedge within a reasonable time, he shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not to exceed \$20 per week from and after the time that he received such notice; such fine to be paid into the county treasury and to be placed to the credit of the road and bridge fund of said county. If any owner of any farm shall fail or refuse, after being notified as herein required, to trim his hedge as required by this act, then the road overseer shall cause the same to be trimmed in accordance with the provisions of this act, to be paid out of the road and bridge fund of the county.

Sec. 10. Each county commissioner, when acting as road commissioner, and performing the duties imposed upon him by law, or by the commissioners court, shall be entitled to two dollars per day for the services actually performed: Provided, that he shall not receive more than forty-five dollars (\$45.00) per quarter, when the road and bridge tax has not been levied as provided by law, under the amendment of 1889, as adopted in 1890, to the Constitution of the State of Texas. And when said tax shall have been levied he may receive an amount not to exceed ninety (\$90) per quarter, which amount shall be paid out of the road and bridge fund, when the account shall have been approved by the commissioners court, and the court shall not approve said account unless the commissioner presenting it shall sign an oath that the account is just, due, and unpaid, and specifying the number of days work actually performed by him, and that it was necessary to be done; and no commissioner shall be entitled to pay as road commissioner while he is performing the duties of a county commissioner.

Sec. 11. This act shall be taken notice of by all courts in the same manner as the general law of the State, and it shall be construed to be cumulative of all general laws of the State on the subject of roads and bridges when not in conflict therewith; but in a case of conflict this act shall control as to the counties of Collin, Grayson, Williamson, Lamar, and Bell; and an act passed at the regular session of the Twenty-second Legislature, approved April 4, 1891, providing a special road law for Collin county, is hereby repealed.

Sec. 12. The fact that there is now no sufficient general road law in force in this State creates an emergency and imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 20th day of April, A. D. 1893, but was not signed by him, nor returned to the house in which it originated, with his objections thereto, within the time prescribed by the Constitution, and thereupon became a law without his signature. Geo. W. Smith, Secretary of State.]

[Note.—The foregoing act takes effect ninety days after adjournment.]

C. C. DUPREE—RELIEF OF.

CHAP. 15.—[S. B. No. 104.] An act for the relief of C. C. Dupree, sheriff and collector of taxes of Franklin county, Texas.

Whereas, C. C. Dupree, as collector of taxes for Franklin county, Texas, had on the 17th day of November, 1887, collected for the State the sum of three hundred dollars, taxes due for the year 1887, and had deposited said sum of money for safe keeping in an iron safe provided by the county commissioners court for the use of the treasurer and collector of taxes for said county, in which to keep the funds of the county, which safe was, on said 17th day of November, burglarized, and said sum of three hundred dollars stolen therefrom; and

Whereas, said C. C. Dupree has paid to the State of Texas said sum of three hundred dollars, as appears by reference to his account with the Comptroller of the State for the year 1887; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas: That the Comptroller of the State is hereby authorized and directed to allow the said C. C. Dupree a credit of three hundred dollars upon his account for taxes collected by him for the State for the year 1892 as sheriff and collector of taxes for said Franklin county, Texas.

Sec. 2. The fact that collectors of taxes are soon required to make their report to the Comptroller of taxes collected by them for the year 1892 creates an emergency, and that this act take effect from and after its passage, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 29th day of April, A. D. 1893, but was not signed by him, nor returned to the house in which it originated, with his objections thereto, within the time prescribed by the Constitution, and thereupon became a law without his signature. J. R. Curl, Acting Secretary of State.]

[Note.—The foregoing act takes effect ninety days after adjournment.]

SARAH A. NICHOLS—GRANTING PERMISSION TO SUE THE STATE.

CHAP. 16.—[H. B. No. 411.] An act granting permission to Sarah A. Nichols to bring suit against the State of Texas in the district court of Travis county to ascertain the amount, if any, the State is indebted to said Sarah A. Nichols, surviving widow of Quilla J. Nichols, on account of the construction of the General Land Office building of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas: That Sarah A. Nichols be and is hereby granted permission to bring suit against the State of Texas in the district court of Travis county, to ascertain and fix the amount, if any, the State is indebted to said Sarah A. Nichols, surviving widow of Quilla J. Nichols, on account of the construction of the General Land Office building of Texas: Provided, that she shall give the necessary cost bond as in other civil suits: And provided further, that the amount which said Sarah A. Nichols may be entitled to recover shall not exceed seven thousand dollars, and such sum within said amount as she may recover shall not bear nor include interest.

Sec. 2. Either party shall have the right of appeal, and any judgment finally established against the State in such suit shall be a liquidated debt which shall be paid by the State.

Sec. 3. The advanced age and infirm condition of the said Sarah A. Nichols makes it important that whatever may be done by way of giving her an opportunity to establish her claim against the State, shall be done at the earliest possible day; wherefore there is an imperative public necessity for the suspension of the rule requiring bills to be read on three several days, and an emergency requiring that this act take effect from and after its passage, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 8th day of May, A. D. 1893, but was not signed by him, nor returned to the house in which it originated, with his objections thereto, within the time prescribed by the Constitution, and thereupon became a law without his signature. J. R. Curl, Acting Secretary of State.]

[Note.—The foregoing act takes effect ninety days after adjournment.]

THE STATE OF TEXAS,
Department of State.

I, Geo. W. Smith, Secretary of State of the State of Texas, certify that the foregoing special laws, passed at the regular session of the Twenty-third Legislature, have been carefully examined and compared with the original enrolled bills now on file in this department, and are true copies of said originals.

I further certify, that the Twenty-third Legislature convened in the city of Austin, January 10th, A. D. 1893, and adjourned May 9th, A. D. 1893.

In testimony whereof, I have subscribed my name, and have hereto affixed the seal of the State of Texas, in the city of Austin,
[L. s.] July 31st, A. D. 1893.

GEO. W. SMITH,
Secretary of State.

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GENERAL LAWS
OF
THE STATE OF TEXAS

PASSED AT THE
REGULAR SESSION OF THE TWENTY-FOURTH LEGISLATURE

CONVENED
AT THE CITY OF AUSTIN

JANUARY 8, 1895, AND ADJOURNED APRIL 30, 1895.



AUSTIN
1895

GENERAL LAWS OF TEXAS.

TWENTY-FOURTH LEGISLATURE, 1895.

APPROPRIATION TO PAY MEMBERS' MILEAGE AND PER DIEM, AND OFFICERS' AND EMPLOYEES' PER DIEM.

CHAP. 1.—[S. B. No. 3.] An act appropriating one hundred and ten thousand dollars to pay members' mileage and per diem, and officers' and employes' per diem, of the Twenty-fourth Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas: That the sum of one hundred and ten thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of the money in the treasury, not otherwise appropriated, for the payment of mileage and per diem pay of members and per diem pay of officers and employees of the Twenty-fourth Legislature.

Sec. 2. The certificate of the Secretary of the Senate, approved by the President thereof, or of the Chief Clerk of the House, approved by the Speaker thereof, shall be sufficient evidence to the Comptroller, upon which he shall audit the claims and issue his warrants upon the Treasurer for the respective amounts.

Sec. 3. And, whereas, the Twenty-fourth Legislature is now in session, and public policy requires their payment, therefore an imperative public necessity exists that the constitutional rule requiring bills to be read on three several days be suspended, and it is so suspended, and this act shall take effect from and after its passage.

Approved January 15, A. D. 1895.

APPROPRIATION TO DEFRAY CONTINGENT EXPENSES.

CHAP. 2.—[S. B. No. 4.] An act making an appropriation to defray the contingent expenses of the Twenty-fourth Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas: That the sum of forty thousand dollars, or so much thereof as may be necessary is hereby appropriated out of any money in the treasury not otherwise appropriated to pay the contingent expenses of the Twenty-fourth Legislature; that, except in cases of accounts for printing done and stationery furnished, the certificate of the chairman of the committee on contingent expenses that an account has been examined and approved by said committee and countersigned by the President of the Senate or Speaker of

the House, as the case may be, shall be sufficient authority to authorize and require the Comptroller of Public Accounts to draw his warrant on the State Treasurer for the payment of any claims against said fund. The accounts for printing and stationery shall take the course prescribed by the Revised Statutes.

Sec. 2. That the fact that it is important that the expenses of the Legislature be promptly paid, creates an emergency and a public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and this act take effect from its passage. It is so enacted.

Approved January 15, 1895.

EXECUTIONS AND JUDGMENTS—REGULATING THE ISSUANCE.

CHAP. 3.—[S. B. No. 26.] An act to regulate the issuance of executions upon judgments of courts of record, and to prevent such judgments from becoming dormant.

Section 1. Be it enacted by the Legislature of the State of Texas: If no execution is issued within twelve months after the rendition of a judgment in any court of record, the judgment shall become dormant and no execution shall issue thereon unless such judgment be revived; but where the first execution has issued within the twelve months the judgment shall not become dormant unless ten years shall have elapsed between the issuance of executions thereon, and executions may issue at any time within ten years after the issuance of the preceding execution.

Sec. 2. The fact that there is no statute prescribing when judgments of courts of record shall become dormant, creates an imperative public necessity and an emergency exists that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage.

Approved January 26, A. D. 1895.

CONDEMNED PROPERTY.

CHAP. 4.—[S. B. No. 73.] An act to authorize the State Health Officer, with the advice and consent of the Governor, to sell any condemned property in the State Quarantine service, and to pay over the proceeds into the general revenue of the State.

Section 1. Be it enacted by the Legislature of the State of Texas: That the State Health Officer be and is hereby authorized, with the advice and consent of the Governor, to sell to the best advantage of the State, for cash, any property in the quarantine service that is useless, and to apply the proceeds thereof to the general revenue of the State of Texas, and make due report of said sale or sales to the Governor.

Sec. 2. Whereas, there is now on hand in the quarantine service some useless property, for which a bidder can be found, and it being to the

interest of the State to dispose of the same when it can, and that said property is daily depreciating in value, therefore an emergency and imperative public necessity for the suspension of the constitutional rule requiring bills to be read on three several days, therefore said rule is hereby suspended, and this act shall take effect and be in force from and after its passage, and it is so enacted.

Approved February 1, A. D. 1895.

FIFTH SUPREME JUDICIAL DISTRICT—TRANSFERRING SMITH AND GREGG.

CHAP. 5.—[S. H. B. No. 99.] An act to take the counties of Smith and Gregg out of the Fifth Supreme Judicial District, and place the same in the First Supreme Judicial District.

Section 1. Be it enacted by the Legislature of the State of Texas: That the counties of Smith and Gregg be and the same are hereby removed from the Fifth Supreme Judicial District, and placed in the First Supreme Judicial District, and appeals and writs of error from the district and county courts of said counties shall be returnable to and heard by the Court of Civil Appeals at Galveston.

Sec. 2. Whereas, the docket of the Fifth Supreme Judicial District is now overcrowded, creates an emergency and an imperative public necessity requiring that the constitutional rule requiring bills to be read on three several days be suspended, and it is so enacted, and that this act take effect from and after its passage.

Approved February 9, A. D. 1895.

RAILROADS—RELIEF OF.

CHAP. 6.—[S. B. No. 34.] An act for the relief of railway corporations, and belt and suburban railway companies, having charters granted or amended since the first day of January, 1887, and which have failed, or are about to fail, to construct their roads and branches, or any part thereof, within the time required by law.

Section 1. Be it enacted by the Legislature of the State of Texas: That the time within which any railroad corporation, chartered under the laws of the State of Texas since the first day of January, 1887, or the charter of which has been amended since that date, is required to begin the construction of its road and construct, equip and put in good running order, as provided in article 4278 of the Revised Statutes of the State of Texas, amended by act of April 8, 1889, shall be and the same hereby is, as to any unfinished portion of such road, extended two years from the taking effect of this act; and any railway company having been chartered since January first, 1887, or the charter to which has been amended since said date, which shall have forfeited its corporate existence, or any of its rights and powers, or is about to do so by reason of failure to comply

with said article 4278, or any part of said article, or amendment thereof, shall have restored and preserved to it its corporate existence, and it shall have and enjoy all of the corporate franchises, property and rights and powers held or acquired by it previous to any cause of forfeiture on account of such failure as aforesaid: Provided, that no railroad company which shall be revived or the time extended by virtue of this act, shall claim or exercise any right or franchise not allowed, granted or permitted to other railway corporations under the laws as now in force in this State, and such railroad company as may be revived or time extended by this act shall comply with the laws of this State now in force appertaining to railway corporations, and the provisions of this act shall extend to and embrace suburban and belt railroads heretofore chartered under the laws of this State.

Sec. 2. Any railway corporation chartered since the first day of January, A. D. 1887, and which by its original charter, or by amendment thereto filed since said first day of January, A. D. 1887, has provided for the locating, constructing, owning, maintaining and operating of any extension or branch line or lines of railway, and which has failed or is about to fail to complete the same, or any part thereof, within the time required by law, shall be and is hereby restored to and granted all and singular the rights, privileges and franchises acquired by such original charter, or by such amendment to its articles of incorporation as if the same were filed and recorded in the office of the Secretary of State on the day of the taking effect of this act, and such corporation shall be and is hereby authorized to project, complete, construct, own and operate any such extensions and branch line or lines of railway under and as provided for in its charter, or in any such amendment to its articles of incorporation: Provided, that said extensions and branch lines of railway shall be by such corporation completed and put in running order at the rate of at least ten miles within one year from the taking effect of this act, and twenty additional miles for each and every year thereafter until all of said extensions and branch line or lines so provided for are completed.

Sec. 3. The fact that no good can result to the State from the forfeitures provided against in this act, and that the public interest and convenience will be promoted, and citizens in many parts of the State having invested in railway enterprises saved from great loss, unless the relief herein provided for be granted, creates an emergency and an imperative public necessity authorizing the suspension of the constitutional rule requiring bills to be read on three several days, and it is so suspended, and demanding that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 30th day of January, A. D. 1895, but was not signed by him, nor returned to the house in which it originated with his objections thereto, within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

RAILROADS—CONSOLIDATION OF LA PORTE, HOUSTON AND NORTHERN RAILROAD, NORTH GALVESTON, HOUSTON AND KANSAS CITY RAILROAD, AND HOUSTON BELT AND MAGNOLIA PARK RAILROAD.

CHAP. 7.—[S. B. No. 35.] An act to authorize the La Porte, Houston and Northern Railroad Company to purchase and acquire and consolidate with it, all the property, rights and franchises of the North Galveston, Houston and Kansas City Railroad Company and the Houston Belt and Magnolia Park Railway Company, and to change its corporate name.

Section 1. Be it enacted by the Legislature of the State of Texas: That the La Porte, Houston and Northern Railroad Company shall have the right to purchase and acquire all of the stock, bonds, property, rights and franchises of the North Galveston, Houston and Kansas City Railroad Company, and the Houston Belt and Magnolia Park Railway Company, and to absorb said roads and consolidate them with the said La Porte, Houston and Northern Railroad, and make them a part thereof. That when so purchased, the La Porte, Houston and Northern Railroad Company shall have the right to take and enjoy all of the rights, privileges and franchises that the said road or roads so purchased are or were entitled to have or enjoy, and shall be liable for all the debts and liabilities of the roads so purchased by it under the provisions of this act, the same as the original company is liable therefor.

Sec. 2. Be it further enacted, that the said North Galveston, Houston and Kansas City Railroad and the said Houston Belt and Magnolia Park Railway, when so purchased and acquired by the said La Porte, Houston and Northern Railroad company, under the provisions of this act, shall be consolidated with and become a part of the said La Porte, Houston and Northern Railroad, and such sale and purchase shall operate as a surrender of the charter of the road or roads so purchased, and said road or roads so purchased shall thereafter be and become a part of the said The La Porte, Houston and Northern Railroad, and shall be operated under its charter.

Sec. 3. Be it further enacted, that any sale and purchase of the roads or either of them, as hereinbefore authorized, to be valid and binding, must be approved by three-fourth of the capital stock of each of the contracting companies at a meeting of the stockholders called for the purpose of approving such sale and purchase; the certificate of such sale and purchase shall be signed by the president and attested by the secretary of each of the contracting companies, and filed with the Railroad Commission, and a like certificate shall also be filed with the Secretary of State, and when so filed, such sale and purchase shall be complete.

Sec. 4. Be it further enacted, that the corporate name of the said La Porte, Houston and Northern Railroad Company shall be and the same is hereby changed to Galveston, La Porte and Houston Railway Company.

Sec. 5. The fact that the passage of this act will enable the railroads above named to be connected as one road, and operated under one charter, thereby largely lessening the expense to the stockholders of the said roads; and, whereas, such connection and consolidation of said roads will be a public benefit by establishing another line of railway between Houston

and Galveston, which will be a parallel and competing line with the other railroads now running between Houston and Galveston; and, whereas, it is necessary in order that the consolidation of said railroads may be effected at once, that said lines may be connected without delay, creates an emergency that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect from and after its passage, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 30th day of January, A. D. 1895, but was not signed by him, nor returned to the House in which it originated with his objections thereto, within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

GREGG COUNTY—RESTORING CIVIL AND CRIMINAL JURISDICTION.

CHAP. 8.—[H. B. No. 155.] An act to restore and confer upon the county court of Gregg county the civil and criminal jurisdiction heretofore belonging to said court under the Constitution and general statutes of Texas; to define the jurisdiction of said court; to conform the jurisdiction of the district court of said county to such change; to fix the time of holding court, and to repeal all laws in conflict with this act.

Section 1. Be it enacted by the Legislature of the State of Texas: That the county court of Gregg county shall hereafter have exclusive original jurisdiction in civil cases wherein the matter in controversy shall exceed in value two hundred dollars and shall not exceed five hundred dollars, exclusive of interest, and shall have concurrent jurisdiction with the district court of said county when the amount in controversy shall exceed five hundred dollars and not exceed one thousand dollars.

Sec. 2. Said county court shall have appellate jurisdiction in civil cases over which justice's courts have original jurisdiction, when the judgment of the court appealed from or the amount in controversy shall exceed twenty dollars, exclusive of interest, and said county court shall have power to hear and determine cases brought up from justice's court by certiorari under the provisions of the title of the Revised Statutes relating thereto.

Sec. 3. The county judge of said county shall have authority, either in term time or in vacation, to grant writs of injunction, sequestration, mandamus, garnishment, attachment, certiorari, supersedeas, and all other writs necessary to the enforcement of the jurisdiction of said court, and shall also have power to issue writs of habeas corpus in all cases in which the Constitution has not exclusively conferred the power on the district court or judge thereof.

Sec. 4. That said court shall have and exercise the general jurisdiction of a probate court; shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards; grant letters testamentary and of administration; settle accounts of execu-

tors, administrators and guardians; transact all business pertaining to the estates of deceased persons, minors, idiots, lunatics, persons non compos mentis and common drunkards, including the partition, settlement and distribution of estates of deceased persons; and to apprentice minors as provided by general law, and to issue all writs necessary for the enforcement of its jurisdiction, orders and decrees.

Sec. 5. Said county court shall have jurisdiction in the forfeiture and judgment of all bonds and recognizances taken in criminal cases of which said court has original or appellate jurisdiction.

Sec. 6. Said county court shall have exclusive original jurisdiction of all misdemeanors, except misdemeanors involving official misconduct, and except misdemeanors in which the highest penalty that may be imposed by the law is a fine without imprisonment that does not exceed two hundred dollars; and said court shall have concurrent jurisdiction with that of justices of the peace in criminal cases and appellate jurisdiction, with trial de novo, in criminal cases in which justices of the peace and other inferior tribunals of said county have original jurisdiction.

Sec. 7. The district court of said county shall no longer have jurisdiction of misdemeanors, except misdemeanors involving official misconduct, and shall no longer have jurisdiction of cases of which the county court of said county by provisions of this act has original or appellate jurisdiction.

Sec. 8. It shall be the duty of the district clerk of said county, within thirty days after this act shall take effect, to make full and complete transcripts of orders on the criminal and civil docket then pending before the district court of said county, of which cases by the provisions of this act original and appellate jurisdiction is given to the said county court, and to deliver said transcript, together with the original papers in each case, to the county clerk of said county, and the said county clerk shall file the same and enter said cases on the respective dockets for trial by said courts.

Sec. 9. The said county court shall also have the power to hear and determine all motions against sheriffs and other officers of the court for failure to pay over moneys collected under the process of said court, or other defalcations of duty in connection with such process, and shall have power to punish by fine not exceeding one hundred dollars and by imprisonment in the county jail not exceeding three days, any person guilty of contempt of said court, and all other powers and jurisdiction conferred on county courts by the Constitution and general laws of this State.

Sec. 10. The terms of said court shall commence on the second Monday in January and on the second Monday in April and on the second Monday in July and on the second Monday in October of each year, and shall continue in session for each term until the business may be disposed of: Provided, that the county commissioners court of said county may hereafter change the terms of said court whenever it may be deemed necessary.

Sec. 11. All laws and parts of laws in conflict with this act be and the same are hereby expressly repealed.

Sec. 12. The importance of restoring without delay the jurisdiction of the county court of said county creates an emergency and an imperative

public necessity that the law requiring bills to be read on three several days be suspended, and said rule is hereby suspended, and that this act do take effect and be in force from and after its passage, and it is hereby so enacted.

Approved February 15, 1895.

TOWNS AND CITIES—OFFICERS—ELECTORS.

CHAP. 9.—[H. B. No. 382.] An act to amend article 347 of an act entitled "An act to adopt and establish the Revised Civil Statutes of the State of Texas," passed March 17, 1879, and to amend article 346 of the Revised Civil Statutes of the State of Texas as amended on April 6, 1881, giving the qualified voters of incorporated towns and cities the right to vote for all elective officers, as guaranteed by the Constitution.

Section 1. Be it enacted by the Legislature of the State of Texas: That article 347 of the Revised Civil Statutes and article 346 of the Revised Civil Statutes of Texas, as amended April 6, 1881, be so amended as to hereafter read as follows, to-wit:

Article 346. At the first election under this title, there shall be elected by the qualified voters of said city, voting by ballot, a mayor, who shall hold his office for two years from the date of his election, and until his successor shall be elected and qualified; and at the first election held under this title there shall be elected by the qualified voters of said city two aldermen from each ward in said city, one of whom shall hold his office for one year, and the other for two years from the date of their election; and the term for which each shall hold his office shall be determined at the first regular meeting after said election, by lot: Provided, that there shall be one alderman for the long term and one for the short term from each of said wards respectively: And provided, further, that at each annual election thereafter there shall be elected one alderman from each ward, who shall hold his office for two years, and until his successor is duly elected and qualified: And provided, further, that where the city or town shall not be divided into wards the city council may determine by proper ordinance what number of aldermen shall go out of office in one year and the mode and manner of deciding which members shall hold for the long term and which for the short term.

Article 347. At all elections under this title the ballots of each ward shall be taken separately, the polls being opened in each ward for one day only, from eight o'clock a. m. until six o'clock p. m., with the privilege of a recess of one hour from twelve to one o'clock. Should the polls not be promptly opened for the reception of votes by eight o'clock a. m., the time thus lost shall be extended beyond the hour of six p. m. so as to secure the full period of nine hours for voting purposes. On closing the polls, the managers of election shall immediately proceed to count and cast up the votes for each candidate and certify and sign the returns in duplicate, one of which shall be sealed up and returned by the presiding officer for future use as a reference in case of a contested election; the other copy shall be sealed up with the name of the presiding officer written across the seals, and by the presiding officer, or in his

absence or inability, by one of the judges or clerks, delivered in open session to the city council the next day or as soon thereafter as practicable. The officer so delivering the same shall make oath before the mayor or one of the aldermen that the returns by him delivered have not been altered or opened since being signed and sealed, as aforesaid. As received the city council shall immediately open the returns from each ward, casting up the votes of the wards for mayor, city attorney, tax assessor and collector, treasurer, city marshal, city engineer and secretary, and for aldermen of the several wards as hereinbefore provided for; and the persons receiving the highest number of votes for the office of mayor, city attorney, tax assessor and collector, treasurer, city marshal, city engineer, secretary, and aldermen shall be declared elected to their respective offices: Provided, that at the first election held under this statute the two persons from the same ward receiving the highest number of votes in the city for aldermen of the wards for which they are candidates, shall be declared elected aldermen of such wards respectively in which they were candidates; and at all subsequent elections held thereunder only one alderman shall be elected from each ward by the qualified voters of such town or city. The newly elected officers may enter upon their duties on the fifth day thereafter, Sundays excepted: Provided, that any officer may qualify at any time within thirty days after his election, otherwise the office shall be deemed vacant, and a new election held to fill the same. It shall be the duty of the secretary to notify all persons elected or appointed to office of their election or appointment, and the city council elect shall meet at the usual place of meeting on the fifth day, Sundays excepted, after their election, or as soon thereafter as possible, and be installed, under the provisions of this title.

Sec. 2. Whereas, all city elections are held in April of each year, and it being so important that aldermen be elected according to the Constitution, creates an imperative public necessity and emergency for the immediate passage of this act, and the suspension of the constitutional rule that bills be read on three several days in each house, and said rule is so suspended, and this act shall take effect and be in force from and after its passage, and it is so enacted.

Approved February 27, 1895.

BONDS—CUSTODIAN OF.

CHAP. 10.—[H. B. No. 251.] An act to make and constitute the Treasurer of the State of Texas the custodian of all bonds held by the State of Texas under the provisions of an act of the Legislature of the State of Texas, approved March 24, 1885, and also an act of the Legislature of the State of Texas, approved February 1, 1889, and to define his duties in relation thereto.

Section 1. Be it enacted by the Legislature of the State of Texas: That the Treasurer of the State of Texas is hereby made the custodian of all bonds in which the school funds of the State of Texas have been or may hereafter be invested, under the provisions of an act of the Legislature, approved March 24, 1885, and also an act of the Legislature approved February 1, 1889; and that it is hereby made his duty to keep said bonds

in his custody until the same shall be paid off, discharged, or otherwise disposed of by the proper authorities of said State.

Sec. 2. Said Treasurer shall upon the payment of any installment of interest see that the proper credit is given, and that the coupons on said bonds when paid shall be properly separated therefrom and cancelled by said Treasurer.

Sec. 3. The fact that there is now no law clearly defining the duties of the Treasurer in reference to the bonds hereinbefore mentioned creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days should be suspended and that this act should take effect and be in force from and after its passage, and it is so enacted.

Approved February 28, 1895.

COURT—TEXARKANA CIVIL AND CRIMINAL.

CHAP. 11.—[S. B. No. 30.] An act entitled an act to establish a court at Texarkana, in Bowie county, to be styled "Texarkana Civil and Criminal Court," and to prescribe the jurisdiction and organization thereof; and to conform the jurisdiction of other courts thereto.

Section 1. Be it enacted by the Legislature of the State of Texas: That there is hereby established and created a court to be held in the city of Texarkana, in Bowie county, Texas, which is hereby styled "Texarkana Civil and Criminal Court."

Sec. 2. Within that portion of the territory of Bowie county described in section 3 of this act, the "Texarkana Civil and Criminal Court," shall have and exercise all the jurisdiction, power and authority in both civil and criminal cases which is now or may hereafter be vested by the constitution and laws of this State in the districts courts of this State, except such jurisdiction, power and authority as are specially withheld from said court by this act, and said court shall also have original jurisdiction of all suits, complaints and pleas whatever, without regard to any distinction between law and equity, as well as of all proceedings under distress warrants issued by justices of the peace when the amount in controversy shall exceed in value two hundred (\$200) dollars exclusive of interest; but said court shall have no jurisdiction in probate matters, and the jurisdiction of the county court of Bowie county as a probate court, and the jurisdiction of the district court of said county in probate matters shall not in any manner be affected, altered or changed by this act. Said Texarkana Civil and Criminal Court shall also have exclusive original jurisdiction of all the criminal cases, both felonies and misdemeanors, where the offense is committed in that portion of Bowie county described in section 3 of this act, and over which justices of the peace and mayors' or recorders' courts have not jurisdiction under the laws of this State, and shall have appellate jurisdiction of all cases both civil and criminal over which justices of the peace and mayors' and recorders' courts of cities and towns have original jurisdiction, and in which cases appeals are now or may hereafter be by law allowed to be prosecuted to the county court.

Sec. 3. The court established by this act shall be held for and its jurisdiction shall extend over and be confined to the following described territory: All that portion of Bowie county, Texas, lying east of the following line: Beginning at a point on the south bank of Red River, same being the S. E. corner of a survey in the name of C. M. Collum, as shown by the map of Bowie county; then westerly to the N.E. corner of the L. Peters survey, as shown by said map; thence south with said L. Peters' east boundary line and the extension thereof produced to the north bank of Sulphur Fork of Red River.

Sec. 4. The district judge of the judicial district in which Bowie county is or may be hereafter situated shall be *ex officio* judge of the "Texarkana Civil and Criminal Court," and shall hold and preside over the same.

Sec. 5. The clerk of the district court of Bowie county shall be *ex officio* clerk of the court established by this act, and shall keep an office in the building where said court is held, from which building the process of said court shall issue; and said clerk shall have the custody of all minutes, records, books, papers, and seal of said court, and shall keep the same in said office; and when he does not reside in Texarkana, he shall have a deputy or deputies residing there. He shall be provided with a seal having engraved thereon a star of five points in the center, and the words "Texarkana Civil and Criminal Court, Bowie County, Texas," the impress of which seal shall be attached to all process, except subpoenas, issued out of said court, and shall be used to authenticate his official acts as such clerk. He shall provide and keep for said court such dockets, minute books, and record books of all kinds, and keep such record and minutes of the proceedings of said court as are required by law to be kept of and for the district courts of this State, and perform such duties as district clerks perform.

Sec. 6. It shall be the duty of the sheriff of Bowie county to attend upon said court, and to execute its process either in person or by deputy, and when he does not reside in Texarkana, he shall keep one or more deputies residing there.

Sec. 7. The district attorney of the judicial district in which Bowie county is or may be hereafter situated shall be *ex officio* attorney for the State in the court established by this act, and it shall be his duty to represent the State in all cases in said court to which the State is a party, except in such criminal cases as may be in said court on appeal from justices courts, and on presentment by information filed by the county attorney of Bowie county, in which cases the county attorney of said county shall represent the State. All the provisions of the law regulating the respective duties, powers and privileges of district and county attorneys in the district and county courts of this State shall apply in this court, when not in conflict with the provisions of this act.

Sec. 8. The clerk of the court established by this act, and all other officers attending upon it, or executing its process, and the attorney representing the State therein, shall receive and be paid the same fees and in the same manner as such officers are or may hereafter be paid for like services in the district and county courts of this State.

Sec. 9. The rules adopted and which may be hereafter adopted by the Supreme Court of the State of Texas for the district and county courts shall govern this court, and the proceedings in this court shall conform

to the rules and practices governing district courts, and all provision of the laws of this State governing district courts and providing for special judges by agreement, and also providing for the election or appointment of special judges for the same, shall apply to and govern this court, as far as applicable, and when not otherwise provided herein.

Sec. 10. The district judge presiding over the court established by this act shall hold at least two regular terms of said court in each year, one term to be begun and holden on the sixth Monday after the fourth Monday in August in each year, and may continue in session for three weeks, and the other term to be begun and holden on the sixth Monday after the first Monday in February of each year, and may continue in session for three weeks, and he shall hold such special terms as may be authorized in accordance with the law governing special terms of the district courts.

Sec. 11. No inhabitant of that portion of Bowie county described in section 3 of this act shall be sued in the district court of Bowie county, nor in the county court of said county in any action over which the court established by this act has jurisdiction, except in such cases as he might be sued in such courts as if he were an inhabitant of any other county than Bowie, or State than Texas, nor shall any person be presented or indicted therein for any offense committed in said county of Bowie within the territory or district described in section 3 of this act.

Sec. 12. The court established by this act shall have power to issue all writs and process as may issue by the district courts of this State.

Sec. 13. The judge of the court established by this act shall at each term thereof appoint three persons to perform the duties of jury commissioners for said court, who shall possess the following qualifications:

1. They shall be intelligent citizens residing in that portion of Bowie county described in section 3 of this act, and be able to read and write.

2. They shall be freeholders in Bowie county, and qualified jurors in the court established by this act.

3. They shall have no suit in the court established by this act which requires the intervention of a jury.

Sec. 14. All provisions of the laws of this State relating to the appointment, organization, privileges, powers, duties and compensation of jury commissioners for the district courts of this State shall apply to and govern the appointment, organization, privileges, powers, duties and compensation of the jury commissioners of the court established by this act, as far as practicable, and when not otherwise provided herein.

Sec. 15. The grand and petit jurors for the court established by this act shall reside in that portion of Bowie county prescribed in section 3 of this act, and shall possess the qualifications prescribed by law for grand and petit jurors for the district courts, and all provisions of the laws of this State relating to the selection, exemption, organization, empaneling, privileges, powers, duties and compensation of grand and petit jurors of this State, or relating to such grand and petit juries in any manner, shall apply to and govern the selection, organization, empaneling, privileges, powers and duties, compensation and exemption of the grand and petit juries of the court established by this act, as far as applicable, and when not otherwise provided herein.

Sec. 16. No inhabitant residing in that portion of Bowie county described in section 3 of this act shall ever be required to render jury

service in the district court of Bowie county, nor in the county court of said county, except in the trial of causes in said court in probate matters, nor in any court of said county held outside of the district prescribed in section 3 of this act.

Sec. 17. All the provisions of the law in reference to the change of venue in civil and criminal cases in the district courts of this State shall apply to and govern in the change of venue in cases pending in the court established by this act, except when the application for a change of venue shows that the cause for change of venue exists only in that portion of Bowie county described in section 3 of this act; then should the venue be changed, it shall be changed to the district court or county court of Bowie county, whichever has jurisdiction of said case.

Sec. 18. All suits for the trial of titles to land, and for the enforcement of liens thereon, whenever the land shall be situated within the territory described in section 3 of this act, shall be brought in the court established by this act.

Sec. 19. In suits for divorce, whenever the plaintiff resides within the territory described in section 3 of this act, and has resided in Bowie county for the time required by law, the same may be brought in the court established by this act.

Sec. 20. In civil cases appeals and writs of error shall lie from the court established in this act to the Court of Civil Appeals of the supreme judicial district in which Bowie county is now or may hereafter be situated, under the same law, rules, regulations and procedures as govern appeals and writs of error from the district and county courts of this State.

Sec. 21. In criminal cases of the grade of felony, appeals shall lie from the court established by this act to the Court of Criminal Appeals, under the same laws, rules, regulations and procedure governing appeals in such cases from the district court, and in all criminal cases below the grade of felony, appeals shall lie from the court hereby established to the said Court of Criminal Appeals, under the same laws, rules, regulations and procedure as govern appeals from the county courts.

Sec. 22. Appeals and writs of certiorari shall be to the court established by this act from all courts of justices of the peace, mayors' and recorders' courts of cities and towns held within the territory described in section 3 of this act under the laws, rules, regulations and procedure governing such appeals and writs of certiorari to county courts, as far as applicable.

Sec. 23. The expenses of the court established by this act shall be paid out of the treasury of Bowie county as are paid the expenses of the district court of said county: Provided, that said county shall not be required to build or erect a court house or jail for the use of said court, nor provide or pay rent for such place, and the court hereby created shall be organized and held in the city hall of the city of Texarkana, in Bowie county, Texas, and said city hall shall become and be the court house for all legal purposes within the territory described in section 3 of this act.

Sec. 24. All cases, both civil and criminal, over which the court established by this act has jurisdiction, that may be pending in the district and county courts of Bowie county when this act takes effect, may be transferred from said courts to this court by agreement of the parties thereto in writing, signed by them in person or by attorney, and filed

among the papers of the case; upon the filing of which agreement the court in which said case is pending shall, either in term or vacation, enter an order on the minutes thereof transferring said case to the court established by this act. In criminal cases the written agreement to transfer shall be signed by the defendant in person, and by the attorney representing the State. When the order of transfer has been made as herein provided, the clerk of the court making such order shall immediately make a certified copy of such order, and all other orders theretofore made in such case, and transmit all the papers in such case, including the written agreement and certified copy or copies of said order or orders, to the court established by this act, and the clerk of such court shall immediately docket and number the same on the proper docket of the court established by this act.

Sec. 25. The jurisdiction of the district and county courts of Bowie county, Texas, shall be and the same is hereby conformed to the changes made by this act, and all laws and parts of laws in conflict with this act are hereby repealed.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 19th day of February, A. D. 1895, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Tom C. Thornton, Acting Secretary of State.]

SCHOOL LANDS—AUTHORIZING REMOVAL OF TIMBER.

CHAP. 12.—[C. S. for H. B. No. 211.] An act to extend for the period of two years the time in which certain purchasers of timber on the school lands in this State may remove the timber from said lands.

Section 1. Be it enacted by the Legislature of the State of Texas: That all persons who have heretofore purchased timber on the school lands in this State under the provisions of the act of April 1, 1887, and the acts amendatory thereof, and who have not when this act takes effect removed the timber purchased by them from said land, and all persons claiming under said purchaser, shall have two years in addition to the time specified in their several contracts of purchase in which they may remove the timber on said lands so purchased by them: Provided, that such purchaser or purchasers, or those claiming under them, shall for the two years extension herein provided for annually pay in advance to the State Treasurer for the use of the available school fund, six per cent interest on the purchase money so paid for such timber so purchased by them respectively.

Sec. 2. The fact that there is great depression in the timber business of this State, and that the contracts of many of the purchasers of the timber on the school lands in this State will soon expire, creates an imperative public necessity and an emergency exists that the constitutional rule requiring bills to be read on three several days in each house of the

Legislature be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 19th day of February, A. D. 1895, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

STATE ORPHANS HOME—SALE OF SURPLUS WATER.

CHAP. 13.—[H. B. No. 314.] An act authorizing the Board of Managers of the State Orphans Home at Corsicana, Texas, to sell, lease or dispose of the surplus water flowing from the artesian well on the grounds belonging to the said Orphans Home.

Section 1. Be it enacted by the Legislature of the State of Texas: That the Board of Managers of the State Orphans Home, situated at Corsicana, Texas, be and are hereby authorized and empowered to sell, lease or dispose of the surplus water belonging to the State, and flowing from the artesian well on the grounds of said Orphans Home, for such price and upon such terms and conditions as the said board may deem best: Provided, that the term of said lease shall not exceed ten years.

Sec. 2. The importance of utilizing the water now going to waste to the interest of the State creates a necessity and emergency for the suspension of the constitutional rule requiring bills to be read on three several days, and that this act takes effect from and after its passage, and it is so enacted.

Approved March 6, 1895.

THEFT—PUNISHMENT OF.

CHAP. 14.—[S. B. No. 115.] An act to amend articles 735 and 736 of the Penal Code of the State of Texas, relating to the punishment for theft.

Section 1. Be it enacted by the Legislature of the State of Texas: That articles 735 and 736 of the Penal Code of the State of Texas be so amended as to hereafter read as follows:

Article 735. Theft of property of the value of fifty dollars, or over, shall be punished by confinement in the penitentiary not less than two nor more than ten years.

Article 736. Theft of property under the value of fifty dollars shall be punished by imprisonment in the county jail not exceeding two years, during which time the prisoner may be put to hard work on the county roads or otherwise, and by fine not exceeding five hundred dollars, or by such imprisonment without fine.

Sec. 2. The fact that the dockets of the district courts of Texas are crowded, and great expense is being entailed upon the State by reason thereof, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect from and after its passage, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 26th day of February, A. D. 1895, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

MONUMENT—STATE FIREMEN'S ASSOCIATION.

CHAP. 15.—[H. B. No. 432.] An act to amend sections 1 and 3 of an act entitled "An act to permit the State Firemen's Association to erect a monument in the Capitol grounds in the city of Austin," approved March 28, 1883.

Section 1. Be it enacted by the Legislature of the State of Texas: That sections 1 and 3 of the above recited act be amended so as to hereafter read as follows:

Section 1. That the State Firemen's Association of the State of Texas be and they are hereby permitted to erect a monument in the Capitol grounds in the city of Austin at such a place therein as may be agreed upon by the Governor, Attorney General and Superintendent of Public Buildings and Grounds, and the proper authorities of said State Firemen's Association of the State of Texas.

Sec. 3. Whereas, the Capitol Board mentioned in said act have been superseded by the Superintendent of Public Buildings and Grounds, without having agreed upon the place for the erection of said monument; and whereas, there is no law now in force authorizing such agreement; and whereas, the patriotic firemen of the State of Texas are anxious to begin at once the work upon a monument to their heroic dead without further delay, therefore such an emergency and imperative public necessity exist that the constitutional rule requiring bills to be read on three several days should be suspended, and that this bill should be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 27th day of February, A. D. 1895, but was not signed by him, nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

CITIES AND TOWNS—INCORPORATION OF.

CHAP. 16.—[S. B. No. 21.] An act to define the territory and provide for establishing the boundaries of cities and towns in this State, and to validate the incorporation of any city or town heretofore incorporated in this State in certain cases.

Section 1. Be it enacted by the Legislature of the State of Texas: That no city or town in this State shall be hereafter incorporated under the provisions of the general charter for cities and towns contained in title 17 of the Revised Civil Statutes of this State with a superficial area of more than two square miles when such town or city has less than two thousand inhabitants, nor more than four square miles when such city or town has more than two thousand and less than five thousand inhabitants, nor more than nine square miles when such city or town has more than five, and less than ten thousand inhabitants. It shall be the duty of the mayor and board of aldermen immediately after they qualify as such officers to pass an ordinance causing an actual survey of the boundaries of such town to be made according to the boundaries designated in the petition for incorporation, and the field notes thereof recorded in the minute book of such town or city, and also in the record books of deeds in the county in which such town or city is situated,

Sec. 2. It shall be the duty of the mayor and the board of aldermen of any town or city in this State heretofore incorporated under the above named title 17 of the Revised Civil Statutes of this State, and whose boundaries have been established so as to include more territory than is specified in section 1 of this act, to immediately cause a resurvey of the boundaries of such city or town to be made, so as not to include more territory than is provided for in section 1. Such resurvey to be made and the field notes thereof to be recorded as provided in section 1 of this act.

Sec. 3. All cities and towns in this State whose charter may be void by reason of a failure to properly define their limits, or that may have included in such limits more territory than is provided for in section 1 of this act, that shall, within ninety days from the taking effect of this act, comply with section 2 of this act, be and such charter or incorporation are hereby in all things validated, the same as if such territorial limits had at first been properly established.

Sec. 4. The fact that many towns and cities in this State have illegally included rural lands in their boundaries, which may invalidate their charters, and the further fact that many towns and cities in this State which are desirous of securing the benefits and relief herein afforded, failed through inadvertance and oversight to act under chapter 120, acts of the Twenty-third Legislature of the State of Texas, within the ninety days, as provided therein, creates an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and the necessity for a law properly defining and validating the boundaries of towns and cities in this State creates an emergency that this act take effect from and after its passage, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 28th day of February, A. D. 1895. but was not signed

by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

MERCHANTS—CLASS, TAX.

CHAP. 17.—[H. B. No. 74.] An act to provide a method of ascertaining the class of a merchant so as to determine the amount of his occupation tax, and to provide for the collection of same, and fixing penalties for the violation of the provisions of this act.

Section 1. Be it enacted by the Legislature of the State of Texas: Every person, firm, corporation, or association of persons, desiring to sell goods, wares or merchandise within this State, shall, before pursuing such occupation, pay the tax and take out a license to pursue the occupation of a merchant of the class to which he properly belongs, according to his annual purchases, as provided by law; and shall file with the tax collector an affidavit of the amount of his annual purchases for the past year, if previously engaged in such business, or part of a year if engaged in such business less than a year, and also of the estimated amount of his annual purchases for the ensuing year. Said affidavit shall be filed and preserved by the tax collector as a part of the records of his office, and shall be in substance as follows, viz.:

“The undersigned, as the representative of ———, doing business at ———, Texas, do solemnly swear that the estimate made of the annual purchases of said concern of goods, wares and merchandise for the next ensuing year does not exceed ——— thousand dollars. I further swear that the annual purchases of said concern for the past ——— months did not exceed the sum of ——— thousand dollars.”

Said affidavit shall be signed and sworn to before some officer authorized to administer oaths, and for this purpose the tax collectors of counties, cities, and towns are hereby authorized to administer oaths.

Sec. 2. If any tax collector shall issue any occupation tax receipt without first taking or filing the affidavit provided for in the foregoing section of this act, he shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than ten nor more than one hundred dollars.

Sec. 3. No occupation tax receipt or license taken out by a merchant of a lower class than the one to which he properly belongs, shall be any protection against a prosecution and conviction for knowingly pursuing that of a higher class and failing to pay the occupation tax due therefor.

Sec. 4. Whereas, there is now no law by which the class of a merchant can be properly ascertained so as to determine the amount of his occupation tax, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect from and after its passage, and it is so enacted.

Approved March 13, 1895.

UNIVERSITY LANDS.

CHAP. 18.—[S. B. No. 110.] An act to invest the Board of Regents of the University of Texas with the management and control of the University lands.

Section 1. Be it enacted by the Legislature of the State of Texas: That the Board of Regents of the University of Texas are hereby invested with the sole and exclusive management and control of the lands which have heretofore been or which may hereafter be set aside and appropriated to or acquired by the University of Texas, with the right to sell, lease and otherwise manage, control and use the same in any manner, and at such prices and under such terms and conditions as may to them seem best for the interest of the University, not in conflict with the Constitution of this State: Provided, that such land shall not be sold at a less price per acre than the same class of land of other funds may be sold at under the statutes.

Sec. 2. The Commissioner of the General Land Office is hereby directed to furnish as soon as practicable to the said Board of Regents complete and accurate maps and all other data necessary to show the location and condition of every tract of said University lands, and shall at all times hereafter furnish to said board such additional information as they may require, and shall at all times render to said board such assistance as may be possible and as they shall request in the discharge of the duties hereby imposed on said board.

Sec. 3. All records and accounts of transactions in University lands, and of moneys paid thereon, shall be kept in the General Land Office and in office of the Treasurer, as heretofore, and all patents shall be signed and issued as heretofore, and all moneys received on the sales or leases of said lands shall be paid to the Treasurer of the State.

Sec. 4. Whereas, it is desirable to place said University lands under the control of the Board of Regents at as early date as possible, in order that the interests of the University be properly looked after, and the greatest possible amount of revenue realized, it is declared that an imperative public necessity exists requiring the suspension of the Constitutional rule which requires bills to be read on three several days, and the same is hereby suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the first day of March, A. D. 1895, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

PROTECTION OF STOCKRAISERS—DESTRUCTION OF WILD ANIMALS.

CHAP. 19.—[H. B. No. 111.] An act to repeal chapter 100, General Laws of the regular session of the Twenty-second Legislature of the State of Texas, entitled "An act to protect stockraisers, farmers, and horticulturists; providing for the destruction of wolves and other wild animals; to make an appropriation therefor, and to repeal chapter 119, relating to same subject," approved April 2, 1887, and to revive chapter 119 of the Twentieth Legislature, approved April 2, 1887, entitled "An act to protect stockraisers; providing for the destruction of wolves and other wild animals."

Section 1. Be it enacted by the Legislature of the State of Texas: That chapter 100, General Laws of the regular session of the Twenty-second Legislature of the State of Texas, entitled "An act to protect stockraisers, farmers, and horticulturists; providing for the destruction of wolves and other wild animals; to make an appropriation therefor, and to repeal chapter 119 relating to the same subject," approved April 2, 1887, be and the same is hereby repealed.

Sec. 2. That hereafter when any person shall kill in this State any wolf, either cayote or lobo, panther, Mexican lion, tiger, leopard or wildcat, he may be paid in the county in which he killed such animals the sum of fifty cents for each cayote wolf or wildcat, and one dollar for each lobo wolf, and the sum of two dollars for each panther, Mexican lion, tiger or leopard so killed.

Sec. 3. The commissioners court of any county may order to be paid to the person or persons having killed any of said animals in their respective counties as fixed in section (2) of this act, upon their exhibiting the scalps of the animals killed to the county judge of said county, accompanied by the written affidavit of such person, stating when and where he killed said animals and the kind of each.

Sec. 4. Such scalp shall consist of a sufficient portion of the said animal's hide, including the ears thereof, to determine whether the same has been taken from one of the above named animals; and the commissioners court may in all cases when it is not satisfied as to the sufficiency of the evidence before it under this act reject any and all claims. The commissioners court shall destroy all such scalps as soon as practicable.

Sec. 5. The fact that much litigation has been occasioned by said act, chapter 100, and that counties are suffering from heavy expense thereunder, creates an emergency and imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect from and after its passage, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 5th day of March, A. D. 1895, but was not signed by him nor returned to the House in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

JUDICIAL DISTRICT—FIFTEENTH.

CHAP. 20.—[S. B. No. 111.] An act to amend section 1 of an act passed at a regular session of the Twenty-third Legislature of Texas, approved April 19, 1893, amending section 1 of an act passed by the Twenty-third Legislature of Texas, reorganizing the Fifteenth Judicial District, and defining the time for holding the courts in said Fifteenth Judicial District, and add section 1a.

Section 1. Be it enacted by the Legislature of the State of Texas: That section 1 of said act shall read as follows:

Section 1. The Fifteenth Judicial district of the State of Texas shall be composed of the county of Grayson, and the district court shall be held therein as follows: A term beginning on the first Monday in September of each year, and may continue in session until and including the last Saturday in December. A term beginning on the first Monday in January of each year, and may continue until and including the last Saturday in March of each year: Provided, there shall be no grand jury selected and empaneled for said January terms of said court. A term beginning on the first Monday in April of each year, and may continue until the business is disposed of.

Sec. 2. The fact that there are a great number of bills before the Legislature, and the crowded condition of the calendar, constitutes an emergency and a public necessity exists for the suspension of the constitutional rule requiring bills [to be] read on three several days, and said rule is hereby suspended.

Approved March 19, 1895.

IRRIGATION.

CHAP. 21.—[S. H. B. No. 120.] An act to encourage irrigation and to provide for the acquisition of the right to the use of water, and for the construction and maintenance of canals, ditches, flumes, dams, reservoirs and wells for irrigation, and for mining, milling, the construction of waterworks for cities and towns, and stockraising.

Section 1. Be it enacted by the Legislature of the State of Texas: That the unappropriated waters of the ordinary flow or underflow of every running or flowing river or natural stream, and the storm or rain waters of every river or natural stream, canyon, ravine, depression or watershed within those portions of the State of Texas in which by reason of the insufficient rainfall or by reason of the irregularity of the rainfall, irrigation is beneficial for agricultural purposes, are hereby declared to be the property of the public, and may be acquired by appropriation for the uses and purposes and in the manner as hereinafter provided.

Sec. 2. The storm or rain waters, as described in the preceding section, may be held or stored in dams, lakes or reservoirs built and constructed by a person, corporation or association of persons for irrigation, mining, milling, the construction of waterworks for cities and towns, or stockraising, within those portions of Texas described in the foregoing section; and all such waters may be diverted by the person, corporation

or association of persons owning or controlling such dam, reservoir or lake for irrigation, mining, milling, the construction of waterworks for cities and towns, and stockraising.

Sec. 3. The ordinary flow or underflow of the running water of every natural river or stream within those portions of Texas described in section 1 of this act may be diverted from its natural channel for irrigation, mining, milling, the construction of waterworks for cities and towns, or stockraising: Provided, that such flow or underflow of water shall not be diverted to the prejudice of the rights of the riparian owner without his consent, except after condemnation thereof in the manner as hereinafter provided.

Sec. 4. The appropriation of water must be either for irrigation, mining, milling, the construction of waterworks for cities and towns, or stockraising.

Sec. 5. As between appropriators the first in time is the first in right.

Sec. 6. Every person, corporation, or association of persons who have constructed or may hereafter construct any ditch, canal, reservoir, dam or lake for the purposes named in this act, and taking the water from any natural stream, storage reservoir, dam or lake, shall within ninety days after this act goes into effect, or within ninety days after commencement of such construction, file and cause to be recorded in the office of the county clerk of the county where the headgate of such ditch or canal may be situated or to which said county may be attached for judicial purposes, in a well-bound book to be kept by said clerk for that purpose, a sworn statement in writing showing approximately the number of acres of land that will be irrigated, the name of such ditch or canal, the point at which the headgate thereof is situated, the size of the ditch or canal, in width and depth, and the carrying capacity thereof in cubic feet per second of time, the name of said stream from which said water is taken, the time when the work was commenced, the name of the owner or owners thereof, together with a map showing the route of such ditch or canal; and when the water is to be taken from a reservoir, dam or lake, the statement above provided for shall show in addition to the ditch and other things provided for, the locality of the proposed dam, reservoir or lake, giving the names or numbers of the surveys upon which it is to be located, its holding capacity in cubic feet of water, the acreage and surface feet of land that will be covered, and the limits of such lake, reservoir or dam, and the area of the watershed from which the storm or rain water will be collected.

Sec. 7. By compliance with the preceding provision of this act the claimant's right to the use of the water relates back to the time when the work of excavation or construction was commenced on said ditch, canal, reservoir, dam or lake: Provided, that a failure to file said statement shall in no wise work a forfeiture of such heretofore acquired rights, nor prevent such claimants of such heretofore acquired rights from establishing such rights in the courts.

Sec. 8. Any person, firm, association of persons or corporation may acquire the right to and appropriate for irrigation purposes the unappropriated waters of the ordinary flow or underflow of every running or flowing river or natural stream, and the storm or rain water of every river or natural stream, canyon, ravine, depression or watershed within those portions of the State referred to in section 1 of this act, by filing a

sworn statement in writing, to be recorded as provided in section 6 of this act, declaring his or its intention of appropriating such water. Said statement shall also show approximately the number of acres of land proposed to be irrigated, the name of such ditch or canal, the point at which the headgate thereof will be situated, the size of the ditch or canal in width and depth, and the carrying capacity thereof in cubic feet per second of time, the name of the person, firm, association or corporation appropriating such water, the name of the stream, and shall attach to such statement a map showing approximately the proposed route of such ditch or canal; and when the water sought to be appropriated or acquired is storm or rain water, the statement above required shall also show or describe the locality of the proposed dam, reservoir, or lake by giving the names or numbers of the surveys upon which it is to be located, and approximately the following, that is to say, its holding capacity in cubic feet of water, the acreage of land that will be covered and the area of the watershed from which the storm or rain waters will be collected: Provided, any person, association of persons or corporation who has heretofore had a survey made of the proposed route of his or its ditch shall have a preference right at any time within ninety days from the time this act shall take effect to file the statement hereinbefore required for the appropriation of water. Within ninety days next after filing of said statement the party or corporation claiming the right to appropriate the water shall begin actual construction of the proposed ditch, canal, dam, lake or reservoir, and shall prosecute the work thereon diligently and continuously to completion.

Sec. 9. "Completion" as used in the preceding section is hereby defined to be the conducting of the water in the main canal to the place of the intended use.

Sec. 10. Whenever any person, corporation or association of persons shall become entitled to the use of any water of any river, stream, canyon, or ravine, or the storm or rain water hereinbefore described, it shall be unlawful for any person, corporation or association of persons to appropriate or divert any such water in any way, except that the owner whose land abuts on a running stream may use such water therefrom as may be necessary for drinking purposes for himself, family and employes, and for drinking purposes for his and their livestock, and any one whose land may be located within the area of the watershed from which the storm or rain waters are collected may construct on his land such dams, reservoirs or lakes as may be necessary for the storage of water for drinking purposes for such owner of land, his family and employes, and for his and their livestock: Provided, that the excess of such water not used or contracted for use by such person, corporation or association of persons for irrigation, mining, milling, the construction of waterworks for cities and towns, or stockraising may be appropriated by any person, corporation or association of persons in the manner hereinbefore provided for the appropriation of water.

Sec. 11. Corporations may be formed and chartered under the provisions of this act and of the general corporation laws of the State of Texas, and for the purpose of constructing, maintaining and operating canals, ditches, flumes, feeders, laterals, reservoirs, dams, lakes and wells, and of conducting, transferring and furnishing water to all persons entitled to the same for irrigation, mining, milling, the construction of water-

works for cities and towns and stockraising, and for the purpose of building storage reservoirs for the collection and storage of water for the uses before mentioned, and for mining, milling, the construction of waterworks for cities and towns, and stockraising. All such corporations shall have full power and authority to make contracts for the sale of permanent water rights and to have the same secured by liens on the land or otherwise, and to lease, rent or otherwise dispose of the water controlled by such corporation for such time as may be agreed upon, and in addition to the lien on the crops hereinafter provided for, the lease or rental contract may be secured by a lien on the land or otherwise. All persons who own or hold a possessory right or title to land adjoining or contiguous to any canal, ditch, flume or lateral constructed and maintained under the provisions of this act, and who shall have secured a right to the use of water in said canal, ditch, flume, lateral, reservoir, dam or lake, shall be entitled to be supplied from such canal, ditch, flume, lateral, dam or lake with water for irrigation of such land, and for mining, milling, the construction of waterworks for cities and towns, and stockraising in accordance with the terms of his or their contract: Provided, that in case of shortage of water from drought, accident or other cause the water to be distributed shall be divided among all consumers pro rata according to the amount he or they may be entitled to, to the end that all shall suffer alike and preference be given to none. The sale of the permanent water right shall be an easement to the land and pass with the title thereof, and the owner thereof shall be entitled to the use of the water upon the terms provided for in his or their contract with such person or corporation, and any instrument of writing providing a permanent water right shall be admitted to record in the same manner as other instruments relating to the conveyance of land.

Sec. 12. All corporations and associations formed for the purpose of irrigation, mining, milling, the construction of waterworks for cities and towns, and stockraising, as provided in this act, are hereby granted the right of way, not to exceed one hundred feet in width, over all public, public free school, university and asylum lands of the State, with the use of the rock, gravel and timber on the right of way for construction purposes, and may obtain the right of way over private lands by contract. Any such corporation or association of persons, or any city or town, may also obtain the right of way over private lands, and also the land for dam sites and storage reservoirs and the water belonging to the riparian owner by condemnation, by causing the damages for any private property appropriated by any such persons, corporations or associations to be assessed and paid for as provided in cases of railroads, and the delay necessary to condemn and acquire the property needed for the ditch, dam site, reservoir and sewers for water supply and drainage or water of the riparian owner shall not work to the prejudice of the person, corporation or association of persons constructing such ditch, canal, lake, reservoir or dam, and shall not be taken into account in estimating the time for the completion of such work.

Sec. 13. All surplus water of a running stream not used or disposed of as provided in the preceding sections of this act shall be conducted back to the stream from which it was taken through a ditch or canal constructed under the provisions of this act, or through a natural channel leading back to the stream.

Sec. 14. All said persons, corporations and associations shall have the right to run along or across all roads and highways necessary in the construction of their work, and shall at all such crossings construct and maintain necessary bridges for the accommodation of the public, and shall not impair the usefulness of such road or highway: Provided, that if any public road or highway or public bridges should be upon the ground necessary for the dam site, reservoir or lake, it shall be the duty of the commissioners court to change said road and to remove such bridges that the same may not interfere with the construction of the proposed dam, reservoir or lake: Provided, further, that the expense of making such change shall be paid by the person, firm or corporation owning such dam site, lake, reservoir or canal.

Sec. 15. Any person who shall wilfully or through gross negligence injure any irrigating canal or its appurtenances, wells, dams or reservoirs, or who shall waste the water thereof, or shall take the water therefrom without authority, shall be deemed guilty of a misdemeanor, and for each offense shall be liable to a fine not exceeding five hundred dollars.

Sec. 16. Any person who shall wilfully or maliciously injure or destroy any irrigation canal or its appurtenances, or any irrigation reservoir, dam, well, or any of the appurtenances thereto to the extent of fifty dollars, or if said injury shall amount in value to fifty dollars, shall be deemed guilty of a felony, and for each offense shall be punished by confinement in the State penitentiary for not less than two nor more than ten years.

Sec. 17. Unless such persons, association of persons, or corporation shall fence their said ditch, canal, reservoir, dam or lake, and keep the same securely fenced, then there shall accrue in their favor no cause of action against owners of livestock for any trespass thereon.

Sec. 18. Every person, corporation or association of persons which has heretofore constructed or which may hereafter construct any ditch, canal, dam, lake or reservoir for the purpose of irrigation, and who shall lease or rent the water from said ditch, canal, lake, dam or reservoir, to any person or association of persons or corporation owning any lands subject to irrigation from any such ditch, canal, lake, dam or reservoir, such person, corporation or association of persons owning such ditch, canal, lake, dam or reservoir shall have a preference lien, superior to every other lien, upon the crop or crops raised upon the land thus irrigated under such lease or contract.

Sec. 19. Any corporation organized under the provisions of the general laws of this State, or the provisions of this act, for the purpose of irrigation, shall have the power to acquire lands by voluntary donation or purchase or in payment of stock or water rights, and to hold and dispose of all such land and other property, and to borrow money for the construction, maintenance and operation of its canals, ditches, flumes, feeders, reservoirs and wells, and may issue bonds and mortgage its corporate and other property and franchises to secure the payment of any debts contracted for the same: Provided, all lands acquired by said corporations, except such as are used for the construction, maintenance and operation of said canals, ditches, laterals, feeders, reservoirs, dams, lakes and wells, shall be alienated within twenty years from the date of acquiring said lands, or be subject to judicial forfeiture.

Sec. 20. All laws and parts of laws in conflict with the provisions of this act are hereby repealed.

Sec. 21. Whereas, it is necessary that irrigating canals should be built at once to afford water for irrigating purposes for the present year, therefore an emergency exists and an imperative public necessity demands the suspension of the constitutional rule which requires a bill to be read on three several days, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 9th day of March, A. D. 1895, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

JUSTICES OF THE PEACE—DISQUALIFICATION OF.

CHAP. 22.—[H. B. No. 65.] An act to amend articles 1563, chapter 5, title 32, of the Revised Statutes of Texas, relating to disqualification of justices of the peace.

Section 1. Be it enacted by the Legislature of the State of Texas: That article 1563, chapter 5, title 32, of the Revised Civil Statutes shall hereafter read as follows:

Article 1563. That if any justice of the peace shall be disqualified from sitting in an [any] civil case pending or which may hereafter be brought before him, or should such justice of the peace be sick or absent from the precinct, the parties to said suit may agree upon some person who is qualified to try said case, and in the event said parties fail to agree upon some person to try said cause at the first term of the court after service is perfect, it shall be the duty of the county judge in whose county said case is pending, upon the application of the justice of the peace in whose court said cause is pending, or upon the application of either party to said suit, to appoint some person who is qualified to try said cause, and the fact of the disqualification of the justice of the peace and the selection by agreement or appointment of some other person to try said cause shall be noted on the docket of said justice in said cause.

Sec. 2. Whereas, much inconvenience accrues to litigants in this State in cases in justice courts for the want of a law authorizing them to agree upon some person to try cases in which the regular justice is disqualified, therefore, an imperative public necessity exists requiring the suspension of the constitutional rule requiring bills to be read on three several days, and that this act take effect from and after its passage, and it [is] so enacted.

Approved March 21, 1895.

IRRIGATION—AMENDMENT.

CHAP. 23.—[S. B. No. 262.] An act to amend sections 10, 11 and 19 of an act heretofore passed at the present session of the Legislature entitled "An act to encourage irrigation, and to provide for the acquisition of the right to the use of water, and for the construction and maintenance of canals, ditches, flumes, dams, reservoirs and wells for irrigation, and for mining, milling, the construction of waterworks for cities and towns, and stockraising."

Section 1. Be it enacted by the Legislature of the State of Texas: That sections 10, 11 and 19 of an act entitled "An act to encourage irrigation, and to provide for the acquisition of the right to the use of water, and for the construction and maintenance of canals, ditches, flumes, dams, reservoirs and wells for irrigation and for mining, milling, the construction of waterworks for cities and towns, and stockraising," be and the same are hereby amended so as hereafter to read as follows:

Section 10. Whenever any person, corporation or association of persons shall become entitled to the use of any water of any river, stream, canyon or ravine, or the storm or rain water hereinbefore described, it shall be unlawful for any person, corporation or association of persons to appropriate or divert any such water in any way, except that the owner whose land abuts on a running stream may use such water therefrom as may be necessary for domestic purposes, and any one whose land may be located within the area of the watershed from which the storm or rain waters are collected may construct on his land such dams, reservoirs or lakes as may be necessary for the storage of water for domestic purposes for such owner of land: Provided, that the excess of such water not used or contracted for use by such person, corporation or association of persons for irrigation, mining, milling, waterworks for cities or towns, or stockraising, may be appropriated by any person, corporation or association of persons in the manner hereinbefore provided for the appropriation of water.

Section 11. Corporations may be formed and chartered under the provisions of this act and of the general corporation laws of the State of Texas, for the purpose of constructing, maintaining and operating canals, ditches, flumes, feeders, laterals, reservoirs, dams, lakes and wells, and of conducting and transferring water to all persons entitled to the same for irrigation, mining, milling, to cities and towns for waterworks, and for stockraising, and for the purpose of building storage reservoirs for the collection and storage of water for the purposes before mentioned. All such corporations shall have full power and authority to make contracts for the sale of permanent water rights, and to have the same secured by liens on the land or otherwise, and to lease, rent or otherwise dispose of the water controlled by such corporation for such time as may be agreed upon, and in addition to the lien on the crops hereinafter provided for, the lease or rental contract may be secured by a lien on the land or otherwise. All persons who own or hold a possessory right or title to lands adjoining or contiguous to any canal, ditch, flume or lateral constructed and maintained under the provisions of this act, and who shall have secured a right to the use of water in said canal, ditch, flume, lateral, reservoir, dam or lake, shall be entitled to be supplied from such canal, ditch, flume, lateral, dam or lake with water for irrigation of such

land, and for mining, milling and stockraising in accordance with the terms of his or their contract: Provided, that if the person, association or corporation owning or controlling such water, and the person who owns or holds a possessory right or title to land adjoining or contiguous to any canal, ditch, flume or lateral constructed and maintained under the provisions of this act fail to agree upon a price for a permanent water right, or for the use or rental of the necessary water to irrigate the land of such person and for mining, milling and stockraising, such person, firm, association or corporation shall, nevertheless, if such person, firm, association or corporation has or controls any water not contracted to others, furnish the necessary water to such person to irrigate his lands, and for mining, milling and stockraising, at such prices as may be reasonable and just: Provided, further, that in case of shortage of water from drought, accident or other cause, the water to be distributed shall be divided among all consumers pro rata, according to the amount he or they may be entitled to, to the end that all shall suffer alike, and preference be given to none. The sale of the permanent water right shall be an easement to the land and pass with the title thereof, and the owner thereof shall be entitled to the use of the water upon the terms provided in his or their contract with such person or corporation, or in case no contract is entered into, then at just and reasonable prices. Any instrument of writing providing a permanent water right shall be admitted to record in the same manner as other instruments relating to the conveyance of land.

Section 19. Any corporation organized under the provisions of the general laws of this State or the provisions of this act, for the purpose of irrigation, shall have the power to acquire lands by voluntary donation or purchase or in payment of stock or water rights, and to hold and dispose of all such land and other property, and to borrow money for the construction, maintenance and operation of its canals, ditches, flumes, feeders, reservoirs, dams, lakes and wells, and may issue bonds and mortgage its corporate and other property and franchises to secure the payment of any debts contracted for same: Provided, no corporation shall issue stock or bonds except for money paid, labor done, or property actually received, and all fictitious increase of stock or indebtedness shall be void: And provided, further, all lands acquired by said corporation, except such as are used for the construction, maintenance and operation of said canals, ditches, laterals, feeders, reservoirs, dams, lakes and wells, shall be alienated within fifteen years from the date of acquiring said lands, or be subject to judicial forfeiture.

Sec. 2. Whereas, it is necessary that irrigation canals should be built at once to afford water for irrigating purposes for the present year, therefore, an emergency exists and an imperative public necessity demands the suspension of the constitutional rule which requires a bill to be read on three several days, and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved March 21, 1895.

PUBLIC FREE SCHOOLS.

CHAP. 24.—[C. S. for H. Bs. Nos. 3 and 7.] An act to amend section 58 of chapter 122 of the general laws enacted by the Twenty-third Legislature, entitled "An act to provide for a more efficient system of public free schools for the State of Texas; defining the school funds," etc., approved May 20, 1893; to provide for separate boards of trustees for the white and colored schools of each school district; to provide for the maintenance of separate schools for white and colored children of each district; to provide for the apportionment of the school funds of each district to the respective schools thereof.

Section 1. Be it enacted by the Legislature of the State of Texas: That section 58 of said act be amended so that hereafter it shall read as follows:

Section 58. White and colored children shall not be taught in the same schools, but impartial provision shall be made for both races. Three white trustees shall in all cases be elected for the control and management of the white schools of the district, and three colored trustees shall be elected for the control and management of the schools for colored children. The election for white and colored trustees shall be held at the same times and places, and the ballots cast for white trustees shall be deposited in a separate box from that used for the ballots cast for colored trustees. The returns of the election shall be made to the county judge, who shall deliver the same to the commissioners court to be canvassed and the result declared as in cases of other county elections. The returns shall show distinctly the separate votes for white and colored trustees, and the county clerk shall certify to the county superintendent the white and colored trustees elected for each district, and the county superintendent shall issue the commissions of trustees. Each year after the scholastic census of the county is completed, the county superintendent shall, if any district has less than twenty pupils of scholastic age, either white or colored, have authority to consolidate said district as to said white or colored schools with other adjoining districts, and to designate the board of trustees which shall control the white or colored school of such consolidated district. But this shall be done before the apportionment is made, and the apportionment shall be made with respect to such consolidation. The white trustees of each district shall be the trustees of the district for all purposes having relation to the management or control of the white schools, and the fund apportioned for their support, and the colored trustees shall be the trustees for all purposes in reference to the management or control of the colored schools and the funds apportioned for their support. The apportionment to the white and colored schools of each district shall be made in the following manner: The county superintendent, upon the receipt of the certificate issued by the Board of Education for the State fund belonging to his county, shall apportion the same to the several school districts (not including the independent school districts of the county), making a pro rata distribution as per the scholastic census, and shall at the same time apportion the income arising from the county school funds to all the school districts, including the independent school districts of the county, making a pro rata distribution as per scholastic census. Within thirty days after said apportionment is made by the county super-

intendent of education, the white and colored boards of trustees of such district shall, if possible, agree upon a division of the funds of the district between the white and colored schools, and shall fix the term for which the schools of the district shall be maintained for the year. Should they agree upon a division of the funds of the district or upon the length of the term for which the schools of the district shall be maintained, they shall at once certify their agreement to the county superintendent, who shall not approve any contract with teachers of the district until said agreement is received. Should said boards of trustees fail to agree upon a division of the funds of the district or upon the length of the term for which the schools of the district shall be maintained, they shall at once certify their disagreement to the county superintendent, who shall proceed to fix the school term of such district and declare the division of the school fund of the district between the white and colored schools therein, endeavoring, as far as practicable, to provide for the schools of such district a school term of the same length.

Sec. 2. All laws and parts of laws in conflict with this act are hereby repealed.

Sec. 3. Whereas, the near approach of the new scholastic year creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved March 21, 1895.

DIRECT TAX—MODE OF DISBURSEMENT.

CHAP. 25.—[H. B. No. 300.] An act to amend section 1 of an act entitled "An act to provide for the prompt, speedy and economical disbursement of the direct tax refunded to the State of Texas under the act of the Fifty-first Congress, approved March 2, 1891," as enacted by the regular session of the Twenty-third Legislature in 1893, being chapter 30 (S. H. B. No. 67), and to repeal all laws in conflict with this act.

Section 1. Be it enacted by the Legislature of the State of Texas: That section 1 of an act entitled "An act to provide for the prompt, speedy and economical disbursement of the direct tax refunded to the State of Texas under the act of the Fifty-first Congress, approved March 2, 1891," as enacted by the regular session of the Twenty-third Legislature in 1893, being chapter 30 (S. H. B. No. 67), be so amended as to hereafter read as follows:

Section 1. That all claims against the direct tax, penalties, costs and interest refunded to the State of Texas in trust for those from whom the same was collected, or their legal representatives, under the act of the Fifty-first Congress, approved March 2, 1891, shall be filed under the direction of the Governor, who shall cause a claim register to be kept by the Comptroller of Public Accounts showing the counties in which and by whom the tax was paid, by whom the claim for reimbursement is made, the number of the claim and the date of the filing, the award of the Comptroller, the name of the payee, the number, date and amount

of the warrant. All claims now on file with the Comptroller by virtue of previous laws or joint resolutions shall be considered as filed under this act, and no refiling thereof shall be necessary, and they shall be acted upon the same as if this act had been in force at the date of the filing thereof.

Sec. 2. That all laws and parts of laws in conflict with this amendment be and the same are hereby repealed.

Sec. 3. The fact that there is now a large sum of the fund mentioned in this act in the hands of the State Treasurer, and that there is now no law upon the statute books of the State allowing the Comptroller to issue warrants to persons who are entitled to same and who have long been deprived of the use and benefits of said fund, creates an imperative public necessity that the rule requiring bills to be read on three several days be suspended, and that this act take effect from and after its passage, and it is so enacted.

Approved March 22, 1895.

SMITH AND GREGG COUNTIES—TRANSFER OF CASES AND WRITS OF ERROR FROM COURT OF CIVIL APPEALS AT DALLAS TO COURT OF CIVIL APPEALS AT GALVESTON

OHAP. 26.—[H. B. No. 562.] An act to transfer cases and writs of error now on appeal from the counties of Smith and Gregg in Court of Civil Appeals at Dallas, to the Court of Civil Appeals at Galveston.

Section 1. Be it enacted by the Legislature of the State of Texas: That all cases, whether on appeal or by writ of error, now pending in the Court of Civil Appeals at Dallas from the counties of Smith and Gregg shall be transferred to the Court of Civil Appeals at Galveston. The clerk of the said court at Dallas shall forthwith transmit to the clerk of the said court at Galveston the records and all papers in said cases, together with a copy of the orders therein.

Sec. 2. The fact that the docket of the Court of Civil Appeals at Dallas being so crowded, and for the relief of said court and the convenience and relief of litigants of said counties, an imperative public necessity exists requiring that the constitutional rule which requires that bills be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved March 22, 1895.

DELTA COUNTY COURT—JURISDICTION RESTORED.

CHAP. 27.—[H. B. No. 165.] An act to restore to and confer upon the county court of Delta county the civil and criminal jurisdiction heretofore belonging to said county under the Constitution and general statutes of the State, and to conform the jurisdiction of the district court of said county to said change.

Section 1. Be it enacted by the Legislature of the State of Texas: That the county court of Delta county shall hereafter have exclusive original jurisdiction in civil cases where matters in controversy shall exceed in value two hundred dollars, and not exceed five hundred dollars, exclusive of interest, and shall have concurrent jurisdiction with the district court of said county when the matter in controversy shall exceed five hundred dollars and not exceed one thousand dollars, exclusive of interest.

Sec. 2. Said county court shall have appellate jurisdiction in civil cases over which justice courts have original jurisdiction when the judgment of the court appealed from or the amount in controversy shall exceed twenty dollars, exclusive of cost, and said county court shall have power to have [hear] and determine cases brought up from the justice court by certiorari under the provisions of the rules of the Revised Civil Statutes relating thereto.

Sec. 3. The county judge of said county shall have authority either in term time or in vacation to grant writs of mandamus, injunction, sequestration, garnishment, attachment, certiorari, supersedeas, and all other writs necessary to the enforcement of the jurisdiction of the said court, and shall also have power to issue writs of habeas corpus in all cases in which the Constitution has not exclusively conferred the power on the district court or the judge thereof.

Sec. 4. Said county court shall have jurisdiction in the forfeiture and judgment on all bonds and recognizances taken in criminal cases, of which criminal cases said court has jurisdiction.

Sec. 5. Said county court shall have exclusive original jurisdiction of all misdemeanors, except misdemeanors involving official misconduct, and except cases in which the highest penalty of fine that may be imposed under the law may not exceed two hundred dollars, and said court shall also have appellate jurisdiction in criminal cases of which justices of the peace and other inferior tribunals of said county have original jurisdiction.

Sec. 6. The district court of Delta county shall no longer have jurisdiction in cases in which the county court of said county by the provisions of this act has exclusive original or appellate jurisdiction; and it shall be the duty of the clerk of the district court of Delta county within thirty days from the passage of this act to make a full and complete transcript of all orders on his docket in cases now pending before the said district court of which cases by the terms of this act exclusive jurisdiction is given to the county court, and to deliver said transcript, together with the original papers and certified bill of cost, to the clerk of said county court, and said county clerk shall enter said case or cases on his docket for trial by said county court.

Sec. 7. The county court of said county shall hereafter hold its regular terms of civil or criminal business as provided in the Constitution

and general laws of the State, and process heretofore issued from the district court of said county in cases to be transferred under this act to the county court shall be returnable to the first term of the county court, and all civil cases transferred shall be entered as appearance cases upon the docket of said county court.

Sec. 8. The county court of said county of Delta shall have as now the general jurisdiction of probate courts for the probate of wills, appointment of guardians of minors, idiots and lunatics, persons non compos mentis and common drunkards, and for issuance of letters testamentary and of administrators, settlement of accounts of administrators and guardians, and the settlement and distribution of decedent's estates, and the apprenticeship of minors and all other necessary powers conferred by law on courts of probate.

Sec. 9. All laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed, and that this act take effect and be in force from and after its passage, and it is so enacted.

Sec. 10. Whereas, the near approach of the district court in and for Delta county creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 12th day of March, A. D. 1895, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

PRIVATE CORPORATIONS—CHARTERS RESTORED AND REVIVED.

CHAP. 28.—[S. B. No. 183.] An act to restore and revive the charters of private corporations chartered under the laws of the State of Texas, and all permits issued by the State of Texas to foreign corporations to transact business within this State, which have from failure to pay their annual franchise tax lapsed or been declared forfeited by the Secretary of State.

Section 1. Be it enacted by the Legislature of the State of Texas: That any private domestic corporation chartered under the laws of the State of Texas, whose charter has been declared forfeited by the Secretary of State, and each and every foreign corporation that has heretofore received a permit to do business under the laws of this State, whose permit has been canceled for its failure to pay its franchise taxes as provided by law, may have its charter revived and reinstated as it existed prior to such failure to pay taxes and declaration of forfeiture upon the payment within ninety days after this act takes effect to the Secretary of State of all taxes, together with a penalty of five dollars. Upon so doing the charter of such corporation shall be revived and reinstated as it existed prior to the date of such forfeiture or lapse of charter: Provided that the provisions of this bill shall not apply to any corporation whose charter

has been declared forfeited by a judicial proceeding instituted for that purpose.

Sec. 2. Whereas, there are in this State some private domestic corporations for the development of the mineral and other resources and valuable products of the State which have by oversight neglected to pay said taxes when they became due; and, whereas, the State is desirous of collecting the revenue due the State from such corporations, and it is to the interest and material development of the State that such corporations continue to do business, and there is no law in effect for their relief, therefore, an emergency exists and imperative public necessity demands that the constitutional rule requiring a bill to be read on three several days be suspended and that this law take effect and be in force from and after its passage, and it is so enacted.

Approved March 29, 1895.

JUDICIAL DISTRICT—FORTY-SIXTH.

CHAP. 29.—[H. B. No. 668.] An act to fix the time for holding the courts in the Forty-sixth Judicial District, and to repeal all laws in conflict herewith.

Section 1. Be it enacted by the Legislature of the State of Texas: That the district court shall be held in the counties composing the Forty-sixth Judicial District each year as follows:

In the county of Wilbarger, on the first Mondays in February and August, and may continue in session six weeks.

In the county of Greer, on the sixth Mondays after the first Mondays in February and August, and may continue in session two weeks.

In the county of Collingsworth, on the eighth Mondays after the first Mondays in February and August, and may continue in session two weeks.

In the county of Hardeman, on tenth Mondays after the first Mondays in February and August, and may continue in session three weeks.

In the county of Childress, on the thirteenth Mondays after the first Mondays in February and August, and may continue in session two weeks.

In the county of Hall, on the fifteenth Mondays after the first Mondays in February and August, and may continue in session two weeks.

In the county of Foard, on the seventeenth Mondays after the first Mondays in February and August, and may continue in session until the business of said court is disposed of.

Sec. 2. That all process issued or served before this act goes into effect, returnable to the district courts in said judicial district, shall be returnable to said courts as fixed by the terms of this act; and said process is hereby legalized and validated, and all grand and petit jurors selected and drawn under existing laws in any of the counties of said judicial district shall be considered lawfully drawn and selected for the next term of the district court of the respective counties held after this act takes effect, and all appearance bonds and recognizances taken in and

for said courts shall bind the parties therein obligated to appear at the next term of such court held under this act.

Sec. 3. That all laws in conflict with the provisions of this act be and the same are hereby repealed.

Sec. 4. The great amount of business now before the Legislature rendering it improbable that this bill can be read on three several days, and the existing inconvenience in attending the courts in said judicial district as now arranged, creates an imperative public necessity and an emergency requiring the constitutional rule which requires bills to be read on three several days to be suspended, and said rule is hereby suspended, and this act shall take effect from and after its passage.

Approved April 1, 1895.

LIMITATION.

CHAP. 30.—[H. B. No. 25.] An act to amend article 3201 of the Revised Statutes of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas: That article 3201 of the Revised Statutes of Texas be so amended as to read as follows:

Article 3201. If a person entitled to commence suit for the recovery of real property, or to make any defense founded on the title thereto, be at the time such title shall first descend or the adverse possession commence:

1. Under the age of twenty-one years; or
2. Of unsound mind; or
3. A person imprisoned;

The time during which such disability shall continue shall not be deemed any portion of the time limited for the commencement of such suit, or the making of such defense; and such person shall have the same time after the removal of his disability that is allowed to others by the provisions of this chapter: Provided, that limitation shall not begin to run against married women until they arrive at the age of twenty-one years; and, further, that their disability shall continue one year from and after the passage of this act, and that they shall have thereafter the same time allowed others by the provisions hereof; and, further, that this act shall in no way affect suits that are now or may be pending when the same takes effect, and all such suits shall be tried and disposed of under the law now in force.

Approved April 1, 1895.

LANDS—VALIDATING CERTIFICATES.

CHAP. 31.—[S. B. No. 138.] An act to validate certain titles to lands located by virtue of certificates issued to railroad companies and now owned by purchasers in actual good faith for value, their heirs or assigns, and by actual settlers, or belonging to the public free school, university or asylum funds.

Section 1. Be it enacted by the Legislature of the State of Texas: That the titles to all lands located by virtue of certificates issued to railroad companies in whole or in part for sidings, switches or turnouts, and which lands were transferred by any of said companies or their duly appointed receivers or assigns prior to the first day of January, A. D. 1891, to purchasers in actual good faith for value, and are now owned by such purchasers, their heirs or assigns, be and the same are hereby validated to such purchasers, their heirs or assigns, and also to all actual settlers on such lands so far as the State may have any claim, and that the titles to all public free school, university or asylum lands located by virtue of such certificates are also validated, whether the locations were voidable or not by reason of their having been made by the wrong surveyor: Provided, that this act shall not apply to lands for the recovery of which suit as has already been instituted by the State, nor be construed to validate locations made on lands that were at the time appropriated or reserved from such locations, nor shall it be construed to in any manner apply to or affect the rights of third parties heretofore acquired in good faith: Provided, further, this act shall not apply or be held to validate titles in the following other cases: (1) Where said lands were transferred through foreclosure proceedings against such companies to trustees or mortgagees or other persons or corporations interested in mortgages on said lands, or who held said lands for such interested persons or corporations, and where the apparent title to said lands was still in said companies or their receivers or their transferees at such foreclosure sale on January 1, 1891, and have not been subsequently transferred to actual settlers on such land or to bona fide purchasers thereof for value and without notice. (2) Where said lands have been transferred by said companies in evasion and fraud of the laws of alienation applicable thereto and the title is now in the name of the original vendees of said companies.

Sec. 2. The great amount of business before this Legislature rendering it improbable that this bill can be read on three several days, and the fact that by the decisions of the Supreme Court of Texas a cloud has been cast upon the titles to lands of many citizens, purchasers in actual good faith for value, and which cloud this act is intended to remove, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved April 6, 1895.

TAXATION—EXPRESS COMPANIES.

CHAP. 32.—[H. B. No. 316.] An act to fix the rate of taxation on express companies; to prescribe the time and manner of collecting such tax, and provide penalties for violation of this act, and repealing all laws in conflict herewith.

Section 1. Be it enacted by the Legislature of the State of Texas: That each and every express company shall annually on or before the first day of March, through its superintendent or other chief officer or authorized agent, file with the Comptroller of Public Accounts a report, under oath, showing the amount of charges and freights within this State paid to or uncollected by such companies on account of money, goods and merchandise carried within this State during the year ending December 31st next preceding, and said express companies at the time of filing the required report shall pay to the Treasurer of the State one and one-half per cent of their gross receipts, as shown by their said reports. The receipt of the State Treasurer shall be evidence of the payment of such taxes, and no occupation taxes shall be levied upon express companies by any county, city or town in this State: Provided, this shall not be construed to prohibit the levy of State, county and municipal taxes upon the real and personal property of such companies. Each and every express company failing or refusing to file the report herein required and pay the required taxes shall forfeit to the State twenty-five dollars for each day said report and payment are delayed. For the purpose of suit to recover the taxes and forfeitures venue and jurisdiction is hereby expressly conferred upon the courts of Travis county, and service upon any officer or agent of such company within this State shall in all respects be held legal and valid.

Sec. 2. That part of each act of 1889 levying an occupation tax of one thousand dollars upon express companies, and all laws and parts of laws in conflict with this act, are hereby repealed.

Sec. 3. The importance of this bill creates an emergency and a public necessity that the constitutional rule requiring bills to be read on three separate days be suspended, and said rule is hereby suspended.

Approved April 6, 1895.

TAXES—LEVY AND PAYMENT OF.

CHAP. 33.—[S. B. No. 68.] An act to amend articles 4684, 4710, chapters 2 and 3, title 95, of the Revised Civil Statutes of the State of Texas, relating to the levy and payment of taxes.

Section 1. Be it enacted by the Legislature of the State of Texas: That articles 4684 and 4710, chapters 2 and 3, title 95, of the Revised Civil Statutes of the State of Texas, be so amended as to hereafter read as follows:

Article 4684. Rendition by Banker, Broker, Etc.—Every bank, whether of issue or deposit, banker, broker, dealer in exchange, or stock

jobber, shall at the time fixed by this chapter for listing personal property, make out and furnish the assessor of taxes a sworn statement showing:

1st. If a national bank, the president or some other officer of such bank shall furnish to the assessor of the county in which such bank is located a list of the names of all the shareholders of the stock, together with the number and amount of the shares of each shareholder of stock in said bank, and the shareholders of the stock in national banks shall render to the tax assessor of the county in which said bank is located the number of their shares and the true and full value thereof. All shares of stocks in national banks not rendered to the assessor of taxes in the county where such bank is located within the time prescribed by law for listing property for taxes shall be assessed by the assessor against the owner or owners thereof as unrendered property is assessed; but the tax rolls shall show the name of the owner or owners thereof as per statement furnished by the president or other officers of said bank.

2d. National banks shall render all other bonds and stocks of every kind, except United States bonds, and all shares of capital stocks or joint stock or stocks of other companies or corporations held as an investment or in any way representing assets, together with all other personal property belonging or pertaining to said bank, except such personal property as is specially exempted from taxation by the laws of the United States.

3d. National banks shall be required to render all of their real estate as other real estate is rendered, and all the personal property of said national banks herein taxed shall be valued as other personal property is valued.

4th. All other banks, bankers, brokers or dealers in exchange, or stock jobbers shall render their list in the manner following:

1. The amount of money on hand or in transit or in the banks [hands] of other banks, bankers, brokers or others subject to draft, whether the same be in or out of the State.

2. The amount of bills receivable, discounted or purchased and other credits due or to become due, including accounts receivable, interest accrued but not due, and interest due and unpaid.

3. From the aggregate amount of the items named in the first and second of the last two subdivisions shall be deducted the amount of money on deposit.

4. The amount of bonds and stocks of every kind, except United States bonds, and all shares of capital stocks or joint stocks of other companies or corporations held as an investment or in any way representing assets.

5. All other property belonging or appertaining to said bank or business, including both personal property and real estate, shall be listed as other personal property and real estate.

Article 4710. The manner and form for assessing property for taxation shall be substantially as follows, to-wit:

1. The name of the owner.
2. Abstract number.
3. From whom and how acquired.
4. The name of the original grantee.
5. The number of acres.
6. The value of the land.

7. The number of the lot or lots.
8. The number of the block.
9. The value of town lots.
10. The name of the city or town.
11. Number of miles of railroad in the county.
12. The value of railroads and appurtenances, including the proportionate amount of rolling stock to the county after the assessment of such rolling stock and its apportionment among the several counties by the Comptroller as hereinafter provided.
13. Number of miles of telegraph in the county.
14. Value of telegraph and appurtenances in the county.
15. Number and amount of land certificates, and value thereof.
16. Number of horses and mules and value thereof.
17. Number of cattle and value thereof.
18. Number of jacks and jennets, and value thereof.
19. Number of sheep and value thereof.
20. Number of goats and value thereof.
21. Number of hogs and value thereof.
22. Number of carriages, bicycles or tricycles, buggies or wagons of whatsoever kind and value thereof.
23. Number of sewing machines and knitting machines and the value thereof.
24. Number of clocks and watches and the value thereof.
25. Number of organs, melodeons, piano fortes, and all other musical instruments of whatsoever kind, and value thereof.
26. The value of household and kitchen furniture over and above the amount of two hundred and fifty dollars.
27. Office furniture and the value thereof.
28. The value of gold and silver plate.
29. The value of diamonds and jewelry.
30. Every annuity or royalty, the description and value thereof.
31. Number of steamboats, sailing vessels, wharves, boats, barges, or other water craft and the value thereof.
32. The value of goods and merchandise of every description which such person is required to list as a merchant in hand on the first day of January of each year.
33. The value of material and manufactured articles which such person is required to list as a manufacturer.
34. The value of manufactures, tools, implements and machinery other than boilers and engines, which shall be listed as such.
35. Number of steam engines and boilers and value thereof.
36. The amount of moneys of bank, banker, broker, stock jobber or any other person.
37. The amount of solvent credits of bank, banker, broker, stock jobber or any other person.
38. The amount and value of bonds and stocks (other than United States bonds).
39. The amount and value of shares of capital stock companies and associations not incorporated by the laws of this State.
40. The value of property of companies and corporations other than property hereinbefore enumerated.

41. The value of stock and furniture of saloons, hotels and eating houses.

42. The value of every billiard, pigeon hole, bagatelle, and other similar table, together with the number thereof.

43. Every franchise, the description and value thereof.

44. The value of all other property not enumerated above.

Sec. 2. That all laws and parts of laws in conflict with the provisions of this act be and are hereby repealed.

Sec. 3. The fact that there is no law authorizing tax assessors to assess United States treasury notes creates an emergency and an imperative necessity exists that this act take effect from and after its passage, and it is so enacted.

Approved April 8, 1895.

PRIMARY ELECTIONS.

CHAP. 34.—[S. B. No. 6.] An act concerning primary elections called and held by authority of any political party; to prevent illegal voting at same, and false returns thereof, and to prevent the bribery of officers and voters, and providing penalties therefor.

Section 1. Be it enacted by the Legislature of the State of Texas: Any person voting at any primary election called and held by authority of any political party for the purpose of nominating candidates of such political party for any public office who is not qualified to vote in the election precinct where he offers to vote at the next State, county or municipal election, or who shall vote more than once at the same or different precincts or polls on the same day, or different days in the same primary election, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding sixty days, or by both such fine and imprisonment.

Sec. 2. Every person who shall knowingly procure any illegal vote to be cast at any such primary election shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in the preceding section.

Sec. 3. Any presiding officer, manager, judge or clerk of any primary election called and held by authority of any political party in this State who shall knowingly make or return, or cause to be made or returned, a false statement of the result of any such primary election shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding sixty days, or by both such fine and imprisonment.

Sec. 4. Any presiding officer, judge, clerk or other officer of an election who shall divulge how any person voted at such primary election, from an inspection of the tickets, unless in a judicial investigation, shall be fined in any sum not less than one hundred nor more than five hundred dollars.

Sec. 5. If any person shall bribe or offer to bribe any presiding officer, manager, judge or clerk of any primary election called and held by authority of any political party for the purpose of nominating candidates of such political party for public office as a consideration for some act done or omitted to be done, or to be done or omitted, contrary to his duty in relation to such primary election, shall be punished by fine not exceeding five hundred dollars.

Sec. 6. If any person shall bribe or offer to bribe any voter for the purpose of influencing his vote at any primary election called and held by authority of any political party for the purpose of nominating candidates of such political party for any public office, upon conviction thereof shall be punished by fine not exceeding five hundred dollars.

Sec. 7. The fact that many cities and towns of this State will hold their elections at an early date, and in many of them primary elections will be held, which should have the protection of this act, creates an emergency and an imperative public necessity for the suspension of the constitutional rule requiring bills to be read in each house on three several days, and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved April 8, 1895.

CITIES AND TOWNS—BOARD OF EXAMINERS OF FINANCES.

CHAP. 35.—[H. B. No. 359.] An act to provide for a board of examiners of finance in cities and incorporated towns within this State; to prescribe the manner of their appointment, and to define their duties.

Section 1. Be it enacted by the Legislature of the State of Texas: That it shall be the duty of the mayor of each city or incorporated town within this State, incorporated under the general laws of the State, at the first regular meeting in January of each year of the board of aldermen or city council, by and with the advice and consent of such board of aldermen or city council, to appoint three resident citizens of such city or incorporated town, who shall constitute and compose a board of examiners of the finances of said city or incorporated town.

Sec. 2. It shall be the duty of such examiners when appointed to proceed to examine the books and accounts of the various officers of such city or incorporated town, and to make a true report of the financial condition thereof under oath to the mayor and board of aldermen or city council of such city or incorporated town as soon after their appointment as practicable: Provided, that in no instance shall the return of such report under oath be deferred longer than the first regular meeting of the board of aldermen or city council in March of each year.

Sec. 3. Such examiners shall receive for their services such compensation as the board of aldermen or city council shall fix each for every day actually employed in their investigations, not to exceed fifteen days in each year, which sum shall be paid by order of the board of aldermen or city council.

Sec. 4. The annual report of such board of examiners shall be passed upon by the board of aldermen or city council and spread upon the min-

utes of their meeting at the first regular meeting of such board or council after the return of such report.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 26th day of March, A. D. 1895, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

CONFEDERATE HOME.

CHAP. 36.—[H. B. No. 540.] An act to amend chapter 14, General Lws of 1891, being an act entitled "An act to authorize the transfer of the Confederate Home at Austin from private to State management, and to establish said Home as a State institution, and provide for its support," approved February 27, 1891.

Whereas, the home for the support of the maimed, disabled and indigent ex-Confederate soldiers and sailors, established at Austin by the contributions of the humane and benevolent of all sections of the Union, which has been managed for some years with marked economy by the John B. Hood Camp of Confederate Veterans, a private corporation duly incorporated under the laws of the State of Texas, cannot, without rapid exhaustion of its resources, provide for the increasing number of veterans who by reason of age and infirmity are unable to obtain by their own exertions the necessary means of subsistence; and,

Whereas, it is not deemed to be within the constitutional power of the Legislature to contribute to the maintenance of said home as a private institution; and,

Whereas, it is now proposed by the said John B. Hood Camp, Confederate Veterans, to transfer to the State of Texas the present Confederate Home, situated on West Sixth street, city of Austin, Travis county, Texas, on condition that the State shall assume the control and maintenance of said Confederate Home, and it is most fitting that the State should make some adequate provision for this large and increasing class of helpless and indigent citizens; now, therefore,

Section 1. Be it enacted by the Legislature of the State of Texas: That there shall be established and maintained at the city of Austin a home to be known as "The Texas Confederate Home" for the maintenance of indigent and disabled ex-Confederate soldiers and sailors within this State, the same to be located on the grounds now known as the Confederate Home, and now under the control and management of the John B. Hood Camp, Confederate Veterans: Provided, that the said John B. Hood Camp, Confederate Veterans, shall within twenty days from the time this act shall go into effect make and execute to the State of Texas, in the manner hereinafter provided, a deed of transfer of the said real estate and all the personal property of every description now in and on said grounds, and shall also release and relinquish to the State all its interest in the building known as the Temporary Capitol, which they acquired by virtue of a certain lease executed in the name of the State of Texas,

in pursuance of an act at the regular session of the Twenty-first Legislature, entitled "An act to lease the Temporary Capitol building in the city of Austin to the board of directors of the John B. Hood Camp of Confederate Veterans."

Sec. 2. That all deeds and other instruments conveying property for the purposes herein mentioned shall be in the name of the State of Texas, for the use of the Confederate Home.

Sec. 3. The Governor shall appoint a board of five ex-Confederate soldiers for the management of said home, said managers to remain in office two years, or until their successors are appointed and qualified; and they shall be governed in their regulations of the affairs of said home by the laws now in existence relative to the Deaf, Dumb and Blind institutions of this State, so far as the same may be applicable, and shall make and prescribe such rules and regulations as may be necessary for the internal government, discipline and management of the home, and shall have power to enforce obedience to and compliance with said rules and regulations by discharging from the home, if in its judgment it be necessary, any inmate who may violate said rules and regulations; and said board shall be required to make such examinations from time to time as it may deem necessary, as to the qualifications and record as a soldier in the Confederate army or navy of any inmate, and to discharge at once any said inmates who procured admission to the home by fraud or misrepresentation; and said board shall every three months cause to be examined by a board of physicians consisting of the home physician and two others not connected with the home, any inmate who may be designated by the superintendent and the home physician, or by any member of the board of managers, as to the physical condition of such inmate, and if it be shown from said examination and report of said examining board that any inmate so examined has sufficiently recovered from his disabilities to be able to earn a living, such inmate shall be given an honorable discharge from the home, with transportation to the place from which he entered the home: Provided, however, that such inmate be given twenty days notice of his dismissal, and that he be subject to all the rules and regulations governing the home during said twenty days, or such part of that time as he may remain in the home after said notice of dismissal be given. The two physicians assisting the home physician in such examinations shall be selected by the board of managers, and they shall be paid for such service two dollars and fifty cents each for each examination made by them; and that said board of managers shall also have charge of all the property received from the John B. Hood Camp, Confederate Veterans, or from any other source, for the maintenance of said home. Said board of managers shall make annual reports to the Governor on the first day of each December, embracing a full statement of all expenditures and transactions of the institution for the fiscal year next preceding. They shall visit the home at least once each month.

Sec. 4. The said board of managers shall appoint a superintendent who shall be an ex-Confederate soldier, whose duties of office shall be the supervision of the affairs of said home, keeping the accounts of the same and its general management, under the direction of the board of managers. He shall be under the control of and subject to removal (for cause duly spread upon the records of said home) by said board, and unless sooner removed by said board for cause, shall hold his office for two years, or

until his successor shall be appointed and qualified. In addition to his other duties he shall keep in a book, prepared for that purpose, the name and age of each inmate, date of admission to the home, the company and regiment or other command or capacity in which the military service was performed, and the State from which he entered the service, and such other data concerning the history of the inmates as the board of managers may prescribe.

Sec. 5. The superintendent of said home shall receive a salary of fifteen hundred dollars per annum.

Sec. 6. All applications for admission to said home must show on the oath of applicant:

1. Name of applicant.
2. His age.
3. His residence (county and postoffice address).
4. The company, regiment, brigade, and army in which he served.
5. That he is disabled and indigent, and is not receiving a pension from any source, and is now a bona fide citizen of Texas. And further (if he did not serve in a Texas command) that he was a bona fide resident of Texas on January first, 1895. Proof of the honorable service of applicant, as stated by himself, must be made by affidavit of two reputable persons, or by his written discharge, duly authenticated with sufficient proof of identity, or such other proof in manner and form as may be entirely satisfactory to the board of managers. The application must also be accompanied by a certificate of a regular practicing physician that the applicant is unable to provide a support for himself, giving the character of the disability, and that the applicant is not a lunatic and is not afflicted with any contagious or infectious disease.

Sec. 7. All applications for admission to said home shall be referred to and passed upon by the board of managers, or a committee of said board.

Sec. 8. For the purpose of carrying into effect this law, a sufficient sum, not to exceed the sum of one hundred thousand dollars for any one year, shall be appropriated out of any money in the treasury not otherwise appropriated for additional buildings and grounds, and improvements of the same, and the support and maintenance of the said Confederate Home, subject to withdrawal as needed upon the order of the board of managers by warrant issued by the Comptroller. All laws and parts of laws in conflict herewith are hereby repealed.

Sec. 9. Whereas, there is now a large number of worthy applicants for admission to the home who are without homes and the necessary means of support, but who can not be admitted on account of the want of room; and whereas, it is important to said applicants that this bill should become a law at an early day; therefore, an emergency and imperative public necessity exists requiring the suspension of the constitutional rule requiring bills to be read on three several days, and said rule is hereby suspended, and this act shall take effect and be in force immediately from and after its passage, and it is so enacted.

Approved April 12, 1895.

CITIES AND TOWNS—VALIDATING THE INCORPORATION OF.

CHAP. 37.—[H. B. No. 597.] An act to validate the incorporation of cities or towns of one thousand inhabitants or over which have heretofore attempted to be made under certain conditions.

Section 1. Be it enacted by the Legislature of the State of Texas: That all cities or towns of one thousand inhabitants or over which have heretofore attempted to accept the provisions of chapter 1, title 17, of the Revised Civil Statutes, and which have attempted to be incorporated under the provisions of said general law, but which said attempted incorporation is invalid by reason of the failure of said cities or towns to comply with all the requirements of law relating to the incorporation of towns or villages, but which said cities or towns have from and after the dates of their several efforts to accept the provisions of law relating to the incorporation of cities or towns of one thousand inhabitants or over, exercised the functions of cities or towns of the class named, and been recognized as such cities or towns, be and are hereby declared to be cities of one thousand inhabitants or over, and their incorporation as such is hereby in all things validated: Provided, that nothing in this act shall be held to validate the incorporation of cities or towns that had less than one thousand inhabitants at the time of their attempted incorporation as such cities or towns of one thousand inhabitants or over.

Sec. 2. Whereas, there are many cities in Texas of one thousand inhabitants or more which have heretofore attempted to accept the provisions of the general law as stated in the preceding section, and have attempted to incorporate themselves but have failed by reason of the failure of said cities to comply with all the requirements of law relating to the incorporation of towns and villages, but have nevertheless been recognized as cities, and have borrowed money, incurred debts, purchased property and levied taxes, built school houses and engaged in many different enterprises for the public good; and whereas, the corporate existence of many of these cities is threatened by legal proceedings by which the creditors of said cities would be without remedy, and the public interest greatly injured, therefore an emergency and an imperative public necessity exists for the suspension of the constitutional rule requiring bills to be read on three several days, and the same is hereby suspended, and this act take effect from and after its passage, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 30th day of March, A. D. 1895, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Tom C. Thornton, Acting Secretary of State.]

HARBOR ISLAND—SALE OF.

CHAP. 38.—[S. B. No. 270.] An act to authorize the Aransas Pass Harbor Company to purchase Harbor Island, on the coast of Texas, in order to encourage the procuring of deep water at Aransas Pass.

Whereas, the Aransas Pass Harbor Company has arranged with certain capitalists to furnish the money to secure deep water over the bar at Aransas Pass on the gulf coast of Texas upon certain conditions, among others that said Aransas Pass Harbor Company acquire the title to Harbor Island, situated near said Aransas Pass; and

Whereas, deep water harbors, docks and wharves on the gulf coast of Texas are of great importance to the development and prosperity of the State of Texas and the entire West and Northwest; now, therefore,

Section 1. Be it enacted by the Legislature of the State of Texas: That the Aransas Pass Harbor Company shall be permitted to purchase from the State of Texas, at two dollars per acre, Harbor Island, situated near Aransas Pass, on the gulf coast of Texas: Provided, that the sale hereby authorized shall not include the twenty-five acres patented to the United States government for Aransas lighthouse; nor shall it in any way interfere with the State keeping the quarantine station on said island as long as the State desires to do so: And be it further provided, that nothing herein shall be construed to affect any rights acquired before the passage of this act.

Sec. 2. Upon the written application of said Aransas Pass Harbor Company to the Commissioner of the General Land Office, accompanied by one-fifth of the purchase money for said island, together with the field notes and plat officially made by the proper county surveyors, the Commissioner of the General Land Office shall execute his receipt for the money when paid, and plat the field notes upon the maps of his office, and the remainder of said purchase money may be paid thereafter at any time within five years, the deferred payments to bear interest at the rate of five per cent per annum, payable annually, until said purchase money is fully paid. One-half of the proceeds of the sale of said island shall belong to the permanent school fund and one-half to the general revenue of the State. If the said Aransas Pass Harbor Company shall fail to pay the annual interest upon any part of the purchase money when said interest shall become due, or shall fail to pay the principal when the same shall become due, then all rights acquired under the purchase, with all payments made thereon, shall be forfeited without judicial ascertainment of such forfeiture, and the Commissioner of the General Land Office shall endorse upon the contract of purchase that the same is forfeited, whereby all rights so acquired shall be forfeited and revert to the State.

Sec. 3. No patent shall issue to said Aransas Pass Harbor Company for said land purchased and paid for until said company has procured a depth of twenty feet of water at mean gulf tide over the bar of Aransas Pass, nor until the same has been maintained for two years thereafter: Provided, that said company shall obtain a depth of fifteen feet of water at mean gulf tide over said bar by the 15th day of April, A. D. 1896, and twenty feet of water at mean gulf tide over said bar by the 1st day of September, A. D. 1896.

Sec. 4. Should said Aransas Pass Harbor Company fail to obtain fifteen feet of water at mean gulf tide over said bar by said 15th day of April, A. D. 1896, or twenty feet of water at mean gulf tide over said bar by said 1st of September, 1896, or to maintain said last named depth for two years after said depth has been obtained, then said Aransas Pass Harbor Company shall forfeit all purchase money paid and all right to purchase under the provisions of this act. The depth of water over said bar shall be determined at mean gulf tide by the engineer in charge of the work and by a competent engineer appointed by the Governor of the State of Texas, whose joint certificate as to said depths shall be sufficient authority for the Commissioner of the General Land Office to issue the patent to the Aransas Pass Harbor Company, when all purchase money and interest has been paid as provided.

Sec. 5. The privileges and rights granted under this act shall not be exercised so as to hinder or interfere with the completion of any terminal or suburban railroad heretofore chartered so far as any rights which it now has under said charter to build to and upon Harbor Island, nor to hinder or interfere with any such terminal or suburban railroad which now has the right under its charter to acquire and control depot grounds, wharf grounds and deep water fronts.

Sec. 6. The great importance of beginning the work and procuring deep water at the earliest possible day, and the fact that the Legislature will soon adjourn, creates an imperative public necessity and an emergency which demands that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 29th day of March, A. D. 1895, but was not signed by him not returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Tom C. Thornton, Acting Secretary of State.]

ANGELINA COUNTY COURT—DIMINISHING CIVIL AND CRIMINAL JURISDICTION OF.

CHAP. 39.—[H. B. No. 545.] An act to diminish the civil and criminal jurisdiction of the County Court of Angelina County, and repeal all laws in conflict therewith.

Section 1. Be it enacted by the Legislature of the State of Texas: That the county court of Angelina county shall have and exercise the general jurisdiction of a probate court; shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis and common drunkards, grant letters testamentary and of administration, settle accounts of executors, administrators and guardians, transact all business appertaining to the estates of deceased persons, minors, idiots, lunatics, persons non compos mentis and common drunkards, including the partition, set-

tlement and distribution of estates of deceased persons, and to apprentice minors as provided for by law, and issue all writs necessary for the enforcement of its own jurisdiction, to punish contempt under such provisions as are now or may be provided by general law governing county courts throughout the State; but the said county court of Angelina county shall have no other civil or criminal jurisdiction whatsoever.

Sec. 2. That the district court of Angelina county shall have and exercise jurisdiction in all civil and criminal matters and causes over which by the laws of this State the county court of said county would have jurisdiction, except as provided in section 1 of this act; and all causes other than probate matters and such as are provided by section 1 of this act be and the same are hereby transferred to the district court of Angelina county; and all writs and process relating to any civil or criminal matters not included in the subject matter of jurisdiction prescribed in section 1 of this act, issued by or out of said county court of Angelina county, be and the same are hereby made returnable to the next term of the district court of said county after this act takes effect.

Sec. 3. That the county clerk of Angelina county be and he is hereby required within thirty days after this act takes effect to make a full and complete transcript of all entries upon his civil and criminal dockets heretofore made in causes which by section 2 are required to be transferred to the district court of said county, and deliver the same to the district clerk of said county, together with all the papers to such causes pertaining and a certified bill of costs in each case, and all such causes shall be immediately docketed by said district clerk, and such civil causes so transferred shall stand on the docket of said court as appearance cases for the next succeeding term, and all criminal cases shall be docketed and disposed of in the same manner as if the same had originally been triable in said district court, and all process now issued and returnable to said county court shall be returnable to said district court.

Sec. 4. That this act shall not be construed to in any manner affect judgments heretofore rendered by said county court of Angelina county pertaining to matters and causes which by section 2 of this act are transferred to the district court of Angelina county; but the county clerk of said county shall issue all executions and orders of sale as the judgments in such cases require, and such executions and orders of sale and proceedings thereunder shall be as valid and binding, to all intents and purposes, as though the changes had not been made as by section 2 therein contemplated.

Sec. 5. That all laws and parts of laws in conflict with this act be and the same are hereby repealed.

Sec. 6. The near approach of the close of the session of the Legislature, and the press of business before it, rendering it improbable that this bill can be read on three several days, and the great saving to said county by the passage of this bill, create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 30th day of March, A. D. 1895, but was not

signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Tom C. Thornton, Acting Secretary of State.]

TAXATION—NATIONAL BANK AND U. S. TREASURY NOTES.

CHAP. 40.—[H. B. No. 383.] An act providing for the assessment of national bank notes and United States Treasury notes.

Section 1. Be it enacted by the Legislature of the State of Texas: That circulating notes of national banking associations and United States legal tender notes and other notes and certificates of the United States, payable on demand and circulating or intended to circulate as currency, and gold, silver and other coin, shall be hereafter subject to taxation as money on hand or on deposit, under the laws of this State.

Sec. 2. The assessor of taxes shall assess the same in the same manner as money on hand or on deposit or other personal property, as provided for in the general assessment laws of this State.

Sec. 3. All laws and parts of laws in conflict with this act are hereby repealed.

Sec. 4. Whereas, the assessors of taxes are now assessing taxes for 1895, and whereas, there is now no law providing for such assessments, therefore an imperative public necessity exists justifying the suspension of the constitutional rule which requires bills to be read on three several days in each house, and the same is hereby suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved April 12, 1895.

CITIES AND TOWNS—DISPENSING, WITH MARSHAL.

CHAP. 41.—[H. B. No. 362.] An act to authorize city and town councils in cities and towns having less than three thousand inhabitants, according to the last preceding census, to dispense with the office of marshal.

Section 1. Be it enacted by the Legislature of the State of Texas: That the city council or town council in any city or town within this State having less than three thousand inhabitants, according to the last preceding census, may by an ordinance of said city council or town council, as the case may be, dispense with the office of marshal: Provided, that when the city marshal has been elected by the people he shall not be removed during his term of office under the provisions of this bill.

Sec. 2. The fact that in many cities and towns of less than three thousand inhabitants the office of marshal is unnecessary and expensive, creates an imperative public necessity that the rule requiring bills to be read on three several days be suspended, and that this act take effect from and after its passage, and it is so enacted.

Approved April 12, 1895.

DELINQUENT TAXES.

CHAP. 42.—[S. B. No. 149.] An act to provide for the collection of taxes heretofore levied and that may hereafter be levied, making such taxes a lien on the lands taxed; establishing and continuing such lien; providing for the sale and conveyance of lands delinquent for taxes since January 1, 1885, which may have been returned delinquent or reported sold to the State, or to any county, city or town, for the tax due thereon and not redeemed, or which may hereafter be returned delinquent or reported sold to the State or to any county, city or town, to satisfy the lien thereon.

Section 1. Be it enacted by the Legislature of the State of Texas: That for the purposes of taxation real property shall include all lands within the State and all buildings and fixtures thereon and appertaining thereto, except such as are expressly exempted by law.

Sec. 2. All lands or lots which have been returned delinquent or reported sold to the State, or to any city or town, for taxes due thereon since the first day of January, A. D. 1885, or which may hereafter be returned delinquent or reported sold to the State, or to any city or town, shall be subject to the provisions of this act, and said taxes shall remain a lien upon the said land, although the owner may be unknown or though it be listed in the name of a person not the actual owner, and though the ownership be changed, the land may be sold under the judgment of the court for taxes, interest and costs due for any preceding year.

Sec. 3. It shall be the duty of the Comptroller of Public Accounts immediately upon the taking effect of this act to prepare a list of all lands, lots or parts of lots sold to the State for taxes since the first day of January, 1885, and which have not been redeemed in each of the counties of this State, and to record such lands in books to be called the "Delinquent Tax Records," and may show when the lands or lots were reported delinquent or sold to the State for taxes, also the name of the owner at the time of such sale or delinquency, the number of acres, the amount of taxes due when first sold, and the amount of tax levied against it for each year since it was first returned delinquent, as shown by the records of his office; and making up the list or lists contemplated by this act for each county the Comptroller is hereby required to make corrections and supply omissions in the description of any real estate embraced in said list or lists, so that when the corrections are made and the omissions are supplied the description will be such as is given in the abstracts of all the titled, patented and located lands in the State of Texas, or, as required in section 12 of this act, such as may be furnished by the Commissioner of the General Land Office, and the Comptroller is further required, in bulk assessments, to apportion to each tract or lot of land separately its pro rata part of the entire tax, interest and cost. The list for each county when signed by the Comptroller shall be prima facie evidence that all the requirements of the law have been complied with by the officers charged with any duty thereunder as to the regularity of listing, assessing and reporting same as delinquent or as sold to the State any real estate whatsoever. This "delinquent tax record" for each county shall be preserved by the Comptroller in his department, and upon the completion of such "delinquent tax record" the Comptroller shall cause a duplicate of same to be sent to the county clerk of the county for which

such "delinquent tax record" is made, or if unorganized, then of the county to which it is attached for judicial purposes, and may require of said county clerk a receipt for the same.

Sec. 4. On receipt of such "delinquent tax record" from the Comptroller containing a complete list of the lands or lots that have been reported delinquent or sold to the State for taxes for any year or number of years since January 1, 1885, and containing also the data and information mentioned in section 3 of this act, it shall be the duty of the county clerk of each of the counties of this State respectively to cause same to be recorded in a book in like manner as is prescribed to be done by the Comptroller in section 3 of this act, which book shall be labeled the "Delinquent Tax Record of ——— County." The delinquent tax records shall be arranged alphabetically in each case as to the names of delinquents.

Sec. 5. Upon receipt of said "delinquent tax record" from the Comptroller by the county clerk of any county in this state, it shall be his duty immediately to certify same to the county commissioners court, and the commissioners court shall cause the same to be published in some newspaper published in the county for three consecutive weeks, if a newspaper is published in the county, but if no newspaper is published in the county, such list may be published in a newspaper outside of the county, to be designated by the commissioners court by contract duly entered into, and a publisher's fee of twenty-five cents shall be taxed against such tract or parcel of land so advertised, and the publishers shall receive such compensation as is provided by law for like services in other cases.

Sec. 6. Twenty days after the publication of such notice, or as soon thereafter as practicable, the commissioners court, or the county judge acting for said court, shall file a list of all lands so advertised for taxes due for any year or number of years, the tax on which remains unpaid, with the county clerk of the county in which such lands are located, or if unorganized, then with the county clerk of the county to which attached for judicial purposes, and are to be sold under the provisions of this act for the taxes, interest and costs, and shall cause suit to be filed in the name of the State of Texas in the district court for said county, or if unorganized, then in the district court of the county to which attached for judicial purposes, stating therein by apt reference to lists or schedules annexed thereto a description of all lands or lots in such county upon which taxes have remained unpaid for any year or number of years since the first day of January, 1885, and the total amount of such taxes, with interest computed thereon to the time fixed for the sale thereof, and shall pray for judgment for the payment of the several amounts so specified therein, and in default thereof that such lands be sold to satisfy said judgment for taxes, interest and costs, and for such other relief to which the State may be entitled under the law and the facts. The petition in such suit shall be signed by the attorney bringing the suit, and shall be verified by the affidavit of said attorney or the county judge to the effect that the averments contained in said petition are true to the best of the knowledge and belief of affiant, and the pleadings of the defendant, except those of law, shall be verified by like affidavit of the defendant, his agent or attorney.

Sec. 7. The proper persons shall be made parties defendant in such suit and shall be served with process and other proceedings had therein as provided by law for suits of like character in the district courts of this State; and in case of foreclosure an order of sale shall issue and the lands sold thereunder as in other cases of foreclosure; but if the defendant or his attorney shall at any time before the sale file with the sheriff or other officer in whose hands any such order of sale shall be placed a written request that the property described therein shall be divided and sold in less tracts than the whole, together with a description of said subdivisions, then such officer shall sell the land in said subdivisions as the defendant may request, and in such case shall only sell as many subdivisions, as near as may be, to satisfy the judgment, interest and costs, and after the payment of the taxes, costs and interest adjudged against it the remainder of the purchase price, if any, shall be paid by the sheriff to the clerk of the court out of which said execution or other final process issued, to be retained by him subject to the order of the court for the period of two years, after which time the court may order the same to be paid to the State Treasurer, who shall hold same in trust to be paid to the owner against whom said taxes were assessed: Provided, any one claiming the same shall make proof of his claim to the satisfaction of the State Treasurer within ten years after the sale of said lands or lots, after which the same shall be governed by the law regulating escheats: Provided, that no suit shall be brought to enforce such lien upon any lands that a sufficient description to identify the same can not first be had.

Sec. 8. In all cases in which lands have been sold or may be sold for default in the payment of taxes it shall be lawful for the sheriff selling the same, or any of his successors in office, to make a deed or deeds to the purchaser or to any other person to whom the purchaser may direct the deed to be made, and any such deed shall be held in any court of law or equity in this State to vest a good and perfect title in the purchaser thereof, subject to be impeached only for actual fraud.

Sec. 9. The county attorney shall represent the State and county in all suits against delinquent tax payers that are provided for in this act. In litigated cases additional counsel may be retained by the commissioners court if they deem it necessary to do so, whose compensation shall be such reasonable fee as may be agreed upon at the time of employment, but in no case shall the compensation for said county attorney be greater than five dollars for the first tract in one suit, and one dollar for each additional tract if more than one tract is embraced in same suit, recover taxes, interest and costs: Provided, that in no case shall the State or county be liable for such fees, but in each case they shall be taxed as costs against the land to be sold under judgment for taxes and paid out of the proceeds of the sale of same after the taxes and interest due thereon to the State are paid. The sheriff shall be entitled to a fee of two dollars for selling, and making deed thereto, each tract or lot of land that he sells under judgment for taxes, which fee shall be taxed as costs in the suit, and the district clerk shall be entitled to a fee of three dollars in each case, to be taxed as costs of suit.

Sec. 10. The tax collector of each county shall make up a list of the lands and lots on the 31st day of March of each year on which the State and county taxes for the preceding year remain unpaid, and shall file a certified

copy of said list with the county clerk of his county, and shall send one to the Comptroller of Public Accounts. The county clerk and Comptroller shall enter said list in the "delinquent tax record," as provided in section 3, immediately upon receipt of same from the tax collector. The commissioners court shall examine such delinquent list, correct errors in same, if there be any, and cause the corrections to be made upon the "delinquent tax record" of the clerk's office, and notify the Comptroller of such corrections made. When the delinquent list is corrected as provided for in this section, then such list shall be advertised as provided for in section 5 of this act, and after such advertisement suit shall be instituted against delinquents in the district court as above provided, and such list as furnished by the tax collector and corrected by the commissioners court shall constitute prima facie evidence of the proper assessment of the real estate, and that the amounts charged against said real estate is a true and correct charge: Provided, that the commissioners court shall have the power in cases where lands delinquent for taxes for any year or years which have been subsequently subdivided and sold by the holder of such tracts of land at the time of delinquency, to pro rate the amount of delinquent or back tax among the holders of subdivisions, and on the payment of such pro rata by the holder of any subdivision he shall be released from any liability for the remainder of the delinquent tax due on the whole tract.

Sec. 11. Any incorporated city or town or school district shall have the right to enforce the collection of delinquent taxes due it under the provisions of this act.

Sec. 12. Real estate which may have been rendered for taxes and paid under erroneous descriptions given in assessment rolls, or lands that may have been doubly assessed and taxes paid on one assessment, or lands which may have been assessed in a county other than the one in which they are located, or lands which may have been sold to the State and upon which taxes have been paid and through error not credited in the assessment rolls, shall not be deemed subject to the provisions of this act. When called upon the Commissioner of the General Land Office shall furnish the Comptroller officially with such information as may be necessary to enable him to determine the validity or locality of such surveys and grants as have not been shown by the printed abstracts of the Land Office.

Sec. 13. Any delinquent taxpayer whose lands have been returned delinquent or reported sold to the State for taxes due thereon, or any one having an interest therein, may redeem the same at any time before his lands are sold under the provisions of this act by paying the taxes due thereon since January first, 1885, with interest at the rate of 6 per cent per annum and accrued costs of suit.

Sec. 14. Where lands are sold under the provisions of this act the owner or any one having an interest therein shall have the right to redeem said land, or his interest therein, within two years from the date of said sale upon the payment of double the amount paid for the land.

Sec. 15. That all laws and parts of laws heretofore passed that may be in conflict with the provisions of this act are hereby repealed.

Sec. 16. The fact there exists no adequate law to enforce the collection of taxes in this State creates an emergency and an imperative pub-

lic necessity that the constitutional rule requiring bills to be read on three several days be in this case suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved April 13, 1895.

INSPECTION OF HIDES AND ANIMALS—COUNTIES EXEMPT.

CHAP. 43.—[S. B. No. 166.] An act to amend section 1 of an act of the Twenty-third Legislature of the State of Texas, entitled "An act to amend section 1 of an act entitled an act to amend section 46, chapter 25, of the acts of 1885, entitled an act to amend chapter 79, of the acts of 1883,, entitled an act to amend chapter 48 of the acts of 1887, an act to amend section 46 of an act to encourage stockraising and to protect stockraisers, approved April 22, 1879, and amended April 4, 1881, and April 12, 1880, and March 27, 1887, and March 29, 1889, and amended March 23, 1891, April 15, 1891, and March 29, 1893, approved May 11, 1893, so as to exempt Wilson, El Paso, Atascosa, Guadalupe, Gillespie, Baylor and Knox counties from the operation of the stock inspection law; and to provide for the election of an inspector of hides and animals in the counties of Cameron, Hidalgo, Starr, Zapata, Webb and Encinal.

Section 1. Be it enacted by the Legislature of the State of Texas: That section 46 of the above entitled act shall hereafter read as follows:

Section 46. The counties of Anderson, Austin, Angelina, Atascosa, Bell, Bowie, Brazos, Bastrop, Bosque, Burleson, Brazoria, Burnet, Caldwell, Camp, Calhoun, Cass, Chambers, Cherokee, Collin, Colorado, Cooke, Delta, Denton, Ellis, Erath, Fannin, Franklin, Falls, Freestone, Gonzales, Eastland, Stephens, Fayette, Fort Bend, Galveston, Goliad, Grayson, Gregg, Grimes, Hardin, Harrison, Hays, Henderson, Hill, Hood, Hunt, Hopkins, Houston, Jackson, DeWitt, Jasper, Jefferson, Johnson, Kaufman, Lamar, Lee, Leon, Lampasas, McLennan, Madison, Marion, Montgomery, Montague, Morris, Nacogdoches, Newton, Orange, Panola, Parker, Polk, Palo Pinto, Rains, Red River, Robertson, Rockwall, Rusk, Sabine, San Augustine, San Jacinto, Shackelford, Shelby, Smith, Titus, Trinity, Tyler, Upshur, Van Zandt, Walker, Washington, Wharton, Wise, Wood, Jack, Harris, Clay, Young, Wheeler, Lavaca, Nueces, Bee, Refugio, Limestone, San Patricio, Somervell, Matagorda, Waller, Karnes, Victoria, Milam, Live Oak, Williamson, Liberty, Wichita, Guadalupe, Gillespie, Baylor, Knox, Wilbarger, Archer, Hardeman, Childress, Hall, Collingsworth, Donley, Gray, Armstrong, Briscoe, Floyd, Randall, Kendall, Comal, Travis, Navarro, Brown, Coryell, Hamilton, Mills, Duval, Comanche, Bailey, Deaf Smith, Dallam, Oldham, Hartley, Hockley, Cochran, Wilson, Foard, are hereby exempt from the operation of this act, and the provisions of the same shall in no wise relate or apply to the aforesaid counties: Provided, that in those counties bordering on the line of the State, except those bordering on Red River and the Rio Grande, where there is a depot or place for the shipment of cattle, no inspector of hides and animals shall be elected, but one for each of such counties shall be appointed by the Governor, who shall hold office for two years and until his successor shall be appointed; and said inspector so appointed to take the constitutional oath of office and give the bond now required of inspectors of hides and animals, and such in-

spectors shall receive the same fees now allowed to inspectors of hides and animals, and perform the same duties: Provided, the inspector shall be elected in the counties of Cameron, Hidalgo, Starr, Zapata, Webb and Encinal: Provided, that such cattle shall not be subject to inspection on board of any railroad unless the same have been placed on board of such train for the purpose of evading the provisions of this act: And provided, further, that the counties of Limestone, Fayette, Lavaca, Gonzales, Colorado, Bell, Calhoun, Hays, Caldwell, Blanco, Llano, Kendall, Comal, Houston, Austin, Johnson, Hill, Ellis, Jackson, Victoria, DeWitt, Freestone, Hamilton, Williamson, Milam, Live Oak, Harris, Bosque, Erath, Hood, Somervell, Liberty, Coryell, Lampasas, Mills, Wichita, Wilbarger, Hardeman, Gray, Armstrong, Briscoe, Floyd, Randall, Kendall, Fannin, Camp, Childress, Hall, Collingsworth, Donley, Delta, Franklin, Hopkins, Hunt, Wilson, Navarro, Guadalupe, Gillespie, Baylor and Knox shall be exempt from all laws regulating inspection of hides; that all laws and parts of laws in conflict with the provisions of this act are hereby repealed.

Sec. 2. The great necessity for this law creates a great public necessity and emergency requiring that the constitutional rule requiring that bills be read on three several days in each house be suspended, and the same is therefore suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—This bill was presented to the Governor of Texas for his approval on the 2d day of April, 1895, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Tom C. Thornton, Acting Secretary of State.]

LIBERTY AND MEDINA COUNTIES—JURISDICTION RESTORED.

CHAP. 44.—[H. B. No. 73.] An act to restore to and confer upon the county court of Liberty and Medina counties the civil and criminal jurisdiction heretofore belonging to said courts under the Constitution and general statutes of the State; to conform the jurisdiction of the district courts of said counties to such change, and to repeal all laws in conflict with the provisions of this act, in so far as relates to Liberty and Medina counties.

Section 1. Be it enacted by the Legislature of the State of Texas: That the county courts of Liberty and Medina counties shall hereafter have exclusive original jurisdiction in civil cases where the matter in controversy shall exceed in value two hundred dollars, and shall not exceed five hundred dollars, exclusive of interest, and that it shall have concurrent jurisdiction with the district court of said counties when the matter in controversy shall exceed five hundred dollars, and not exceed one thousand dollars.

Sec. 2. Said county courts shall have appellate jurisdiction in civil cases over which justice courts have original jurisdiction when the judgment of the court appealed from or the amount in controversy shall exceed twenty dollars, and said county courts shall have power to hear and

determine cases brought up from justice courts by certiorari under the provisions of the title Revised Statutes relating thereto.

Sec. 3. The county judges of said counties shall have authority either in term time or in vacation to grant writs of mandamus, injunction, sequestration, garnishment, attachment, certiorari, supersedeas, and all other writs necessary to the enforcement of the jurisdiction of said courts, and shall have power to issue writs of habeas corpus in all cases in which the Constitution has not exclusively conferred the power on the district courts or judges thereof.

Sec. 4. Said county courts shall have jurisdiction in the forfeiture and judgment of all bonds and recognizances taken in criminal case of which said courts have jurisdiction.

Sec. 5. Said county courts shall have exclusive original jurisdiction of all misdemeanors, except misdemeanors involving official misconduct, and except in cases in which the highest penalty of fine that may be imposed under the law may not exceed two hundred dollars, and said courts shall also have appellate jurisdiction in criminal cases of which justices of the peace and other inferior tribunals of said counties have original jurisdiction.

Sec. 6. The district courts of Liberty and Medina counties shall no longer have jurisdiction of cases of which the county courts of said counties by the provisions of this act have exclusive original or appellate jurisdiction; and it shall be the duty of the clerks of the district courts of Liberty and Medina counties, within thirty days from the passage of this act, to make a full and complete transcript of all orders on the docket and minutes in cases now pending before said district courts, of which cases by the terms of this act exclusive jurisdiction is given to said county courts, and they shall deliver said transcripts, together with the original papers and certified bill of costs, to the clerks of said county courts, and said county clerks shall enter said case or cases on the docket for trial by said county courts.

Sec. 7. The county courts of said counties shall hereafter hold their regular terms for civil and criminal business as provided in the Constitution and general laws of the State, and process heretofore issued from the district courts of said counties in cases to be transferred under this act to the county courts of Liberty and Medina counties shall be returnable to the first term respectively held by said county courts after this act shall go into effect, and all cases transferred shall be entered as appearance cases upon the docket of said county courts.

Sec. 8. The county courts of Liberty and Medina counties shall have as now the general jurisdiction appertaining to probate courts for the probate of wills, appointment of guardians of minors, idiots, lunatics, persons non compos mentis and common drunkards, and for the issuance of letters testamentary and of administration, settlement of accounts of administrators and guardians, and the settlement and distribution of decedents' estates, and the apprenticeship of minors, and all other necessary powers conferred by law on courts of probate.

Sec. 9. That all laws and parts of laws in conflict with the provisions of this act in so far as relate to Liberty and Medina counties be and the same are hereby repealed.

Sec. 10. Whereas, the county courts of Liberty and Medina counties are without the jurisdiction necessary for the just and proper administra-

tion of the laws, creates such an emergency and public necessity as require the suspension of the constitutional rule requiring bills to be read on three several days, said rule is therefore suspended, and it is enacted that this act shall take effect and be in force from and after its passage.

Approved April 15, 1895.

GOLIAD COUNTY—JURISDICTION INCREASED.

CHAP 45.—[H. B. No. 596.] An act to increase the civil jurisdiction of the county court of Goliad county.

Section 1. Be it enacted by the Legislature of the State of Texas: That the county court of Goliad county shall have and exercise original concurrent jurisdiction with the justices' court in all civil matters which by the general laws of this State is conferred upon justices' courts.

Sec. 2. Said county court shall also have and exercise such jurisdiction over and pertaining to all matters and things and proceedings as by the general laws of this State is conferred upon county courts.

Sec. 3. No appeal or writ of error shall be taken to the Court of Civil Appeals from any final judgment of said county court in civil cases of which said court has appellate or original concurrent jurisdiction with the justices' court where the judgment or amount in controversy does not exceed one hundred dollars exclusive of interest and costs.

Sec. 4. This act shall not be construed to deprive the justices' courts of the jurisdiction now conferred upon them by law, but only to give concurrent original jurisdiction to the said county court over such matters as are specified in section 1 of this act, nor shall this act be construed to deny the right of appeal from the justices' courts to the said county court in any case originally brought in the justice's court where the right of appeal now exists by law.

Sec. 5. All laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

Sec. 6. The near approach of the close of the present session of the Legislature, the crowded condition of the calendar, and the fact that no statute now exists granting such relief to the citizens of Goliad county as is sought in this bill, creates an imperative public necessity demanding the suspension of the constitutional rule requiring bills to be read on three several days, and said rule is so suspended; and the fact that no law now exists upon this subject creates an emergency requiring that this act take effect from and after its passage, and it is so enacted.

Approved April 15, 1895.

CONTESTED ELECTIONS.

CHAP. 46.—[S. H. Bs. Nos. 26 and 102.] An act to regulate contested elections and to prescribe the procedure in such cases, and to repeal all laws or parts of laws in conflict therewith.

Section 1. Be it enacted by the Legislature of the State of Texas: That contested elections for the office of district attorney shall be tried by the district judge of the district in the county where the candidate who shall have received the certificate of election shall reside, and if there are two district judges in said county, then to be tried before either of said judges.

Sec. 2. Contested elections for the office of district judge shall be tried in the county of the adjoining district the county seat of which is nearest to the residence of the candidate who shall have received the certificate of election, and by the district court of such adjoining district, and in counties having two or more district courts then to be tried by the district court of the adjoining district in said county.

Sec. 3. Contested elections for the office of chief justice or associate justice of the Supreme Court and judges of the Court of Criminal Appeals shall be tried in the county and by the district court of the district, or one of them, in which the seat of government is located. And contested elections for the office of chief justice of the Court of Civil Appeals or associate justice of any supreme judicial district in the State, shall be tried by the district court, or either of them if there are more than one, in the county where said Court of Civil Appeals has its sittings.

Sec. 4. Contested elections for any county office shall be tried by the district court in the county where the election was held. If there are two such courts, then to be tried by either of them.

Sec. 5. Contested elections for other purposes than the election of officers shall be tried by the district court in the county where the election was held, or either of them if there is more than one such court.

Sec. 6. Any person intending to contest the election of any one holding a certificate of election as a member of the Legislature or for any office mentioned in this act, shall within thirty days after the return day of election give him a notice thereof in writing and deliver to him, his agent or attorney, a written statement of the ground on which such contestant relies to sustain such contest. By the "return day" is meant the day on which the votes cast in said election are counted and the official result thereof declared.

Sec. 7. The person holding such certificate shall within ten days after receiving such notice and statement deliver or cause to be delivered to said contestant, his agent or attorney, a reply thereto in writing.

Sec. 8. The notice, statement and reply required by the two preceding articles may be served by any person competent to testify, and shall be served by delivering the same to the party for whom they are intended in person, if he can be found in the county, if not found, then upon the agent or attorney of such person, or by leaving the same with some person over the age of sixteen years at the usual place of abode or business of such person.

Sec. 9. If the contest be for the validity of an election for any State office, except the office of Governor and Lieutenant Governor, or for any

district office except members of the Legislature, or for any county office, a copy of the notice and statement of the contestant and of the reply thereto of the contestee served on the parties shall be filed with the clerk of the court having jurisdiction of the case.

Sec. 10. When the notice, statement and reply have been filed with the clerk of the court he shall docket the same as in other causes, and the said contest shall have precedence over all other causes. Should the office contested for be that of clerk of the district court, then a clerk pro tem. shall be appointed as is provided now by law in suits where the clerk is a party to the suit.

Sec. 11. In trials of all contests of election the evidence shall be confined to the issues made by the statement and reply thereto, which statement and reply may be amended as in civil cases; and as to the admission and exclusion of evidence, the trial shall be conducted under the rules governing proceedings in civil causes.

Sec. 12. Whenever the validity of an election for an office other than for members of the Legislature is contested, the contestee shall within twenty days after the service of the notice and statement of such contest upon him, as provided in this act, file with the clerk of the court in which such contest is pending a bond with two or more good and sufficient sureties, payable to the contestant, to be approved by said clerk, in an amount to be fixed by said clerk, not less than double the probable amount of salary or fees or both, as the case may be, to be realized from the office being contested for a period of two years. Said bond to be conditioned that in the event the decision of the contest shall be against such contestee, and in favor of the contestant, such contestee will pay over to such contestant whatever sum may be adjudged against him by a court having jurisdiction of the subject matter of such bond.

Sec. 13. Should the contestee fail to file the bond as required in the preceding section, and within the time therein prescribed, it shall be the duty of said clerk to notify the contestant immediately of such failure, and such contestant shall have the right within ten days after such notice to file a like bond payable to the contestee, conditioned that in the event the decision of the contest is against him and in favor of the contestee, he will pay over to such contestee whatever sum may be adjudged against him, the said contestant, by a court having jurisdiction of the subject matter of such bond.

Sec. 14. Immediately upon the filing of said bond by the contestant the clerk shall certify in writing, and under his official seal, to the Governor that the contestee failed to give the required bond, and that the contestant has given such bond in accordance with law.

Sec. 15. Upon receiving such certificate from the clerk it shall be the duty of the Governor to issue a commission to the said contestant for the office in controversy pending such contest, and thereupon the contestant, upon qualifying in said office as required by law, shall exercise all the rights and powers and perform all the duties of said office for the full term thereof, unless it shall be otherwise determined and ordered by the court upon the trial of such contest.

Sec. 16. It shall be the duty of the Governor to issue the commission to the contestee at the time provided by law as in other cases, unless he has been notified of the failure of such contestee to file the bond required by section 12, in which event the Governor shall withhold the issuance

of such commission until after the time allowed the contestant to file such bond has elapsed, but if the said contestant shall also fail to file bond as provided in section 13, and within the time therein required, it shall be the duty of the clerk to certify all the facts in the case under his official seal to the Governor, who shall thereupon issue the commission to the contestee.

Sec. 17. If upon the trial of any contested election case any vote or votes be found to be illegal or fraudulent, the court trying the same shall subtract such vote or votes from the poll of the candidate who received the same, and after a full and fair investigation of the evidence shall decide to which of the contesting parties the office belongs.

Sec. 18. Should it appear on the trial of any contest provided for in section 9 of this act that it is impossible to ascertain the true result of the election as to the office about which the contest is made, either from the returns of the election or from any evidence within reach, or from the returns considered in connection with other evidence, or should it appear from the evidence that such a number of legal voters were by the officers or managers of the election denied the privilege of voting as, had they been allowed to vote, would have materially changed the result, the court shall adjudge such election void, and direct the proper officers to order another election to fill said office, which election shall be ordered and held and returns thereof made in all respects as required by the general election laws of the State.

Sec. 19. The bonds required to be filed by the contestant and contestee under the provisions of this act shall remain on file in the office of the clerk where filed, and may be sued upon as other bonds.

Sec. 20. Either the contestant or contestee may appeal from the judgment of the district court to the Court of Civil Appeals under the same rules and regulations as are provided for appeals in civil cases, and such cases shall have precedence in the Court of Civil Appeals over all other cases.

Sec. 21. In case of appeal as provided for in the preceding section, the clerk shall without delay make up the transcript and forward the same to the clerk of the Court of Civil Appeals for that district.

Sec. 22. The costs in all contested election cases shall be taxed according to the laws governing costs in civil cases, except when otherwise specially provided, and bond for cost may be required as in civil suits.

Sec. 23. Where the contest shall have been decided against one of the parties and the other party shall have filed a bond and performed the duties of the office under the provisions of this act, the bond so filed shall inure to the benefit of the successful party in any suit thereon in a court having jurisdiction of the amount in controversy, and the measure of damages recoverable, besides cost of suit, shall be the salary, fees, and emoluments of office of which he has been deprived, less such reasonable expenses as the party holding the office shall have incurred in executing the duties of the office: Provided, that he shall have acted in good faith in receiving the certificate of election or commission for the office.

Sec. 24. If the contest be for the validity of an election for members of the Legislature, a copy of the notice, the statement and the reply served upon the parties as required by this act, shall within twenty days after the service thereof be filed with the district returning officer to whom the returns of such election were made, who shall envelope the same,

together with a certified copy of the poll book or register of the votes of each precinct and county returned to him in said election, and shall seal the said envelope and write his name across the seals, and address the package to the President of the Senate or Speaker of the House of Representatives, as the case may be, to the care of the Secretary of State, and shall forward the same by mail or other safe conveyance to the seat of government, so as to reach there if possible before the convening of the Legislature.

Sec. 25. At any time after filing said papers with said returning officer either party to said contest may proceed, at his own expense, to take such written testimony as he may deem proper, having first served the opposite party, his agent or attorney, with a copy of the interrogatories he intends to propound to each witness, and the name of the officer before whom such interrogatories will be answered, as well as the time and place of taking such testimony.

Sec. 26. Any officer authorized by the law of this State to administer oaths, upon being satisfied as to any costs, including his own fees, that may accrue in the taking of such testimony, shall proceed, upon the application of the party desiring it, to summon the witness or witnesses named in the interrogatories and take his or their answers in writing and under oath to such interrogatories and cross interrogatories as may be propounded in writing.

Sec. 27. The answers of each witness shall be reduced to writing and signed by such witness, and sworn to by such witness before the officer taking the same, and shall be certified to by such officer and sealed in an envelope, and the name of the said officer shall be written by him across the seals, and he shall forward the same without delay by mail or other safe conveyance to the President of the Senate or Speaker of the House of Representatives, as the case may be, to the care of the Secretary of State, at the seat of government.

Sec. 28. The notice and statement of contest and the other papers pertaining thereto shall immediately after the organization of the Legislature be opened by the President of the Senate or the Speaker of the House of Representatives, as the case may be; and the same shall be referred to the committee on privileges and elections of the house in which that contest is pending, which committee shall proceed without delay to fix a time for the hearing of said case, and after due notice to the parties thereto shall investigate the issues between said parties, hearing all the legal evidence that may be presented to said committee, and shall as soon thereafter as practicable report their conclusions of law and fact in respect to said case to the house by which said committee was appointed, accompanied by all the papers in the cause, and the evidence taken therein, with such recommendations as may to them seem proper. Any one or more of the committee dissenting from the views of the majority may present a minority report.

Sec. 29. The rules of evidence and the laws in force respecting the admissibility of evidence, the taking of depositions and the issuance and service of process in the district courts of this State shall be observed by said committee, so far as the same may be applicable. Said committee shall have the power to send for persons and papers, and the chairmen of said committees shall have the power to issue all process necessary to secure the attendance of witnesses and the production of papers, ballot

boxes and other documents before said committee, and such process shall be executed by the sergeant-at-arms of the house in which the contest is pending, or by such other person as may be designated by the presiding officer of said house.

Sec. 30. The house in which the contest is pending shall, as soon as practicable after the report of the committee has been received, fix a day for the trial of the contest, and shall proceed to determine whether the contestant or contestee, or either of them, is entitled to the contestant's seat: Provided, the said house may hold the election void after full consideration of all the evidence and for the reasons prescribed in section 18 of this act, and in such case the Governor shall be at once notified of the vacancy. Such fees shall be paid to the witnesses and the officers serving the process as shall be prescribed by the rules of the house in which said contest is pending, and no mileage or per diem shall be paid to either of the parties to said contest until said case is determined, and in no case shall any mileage or per diem be paid to any party against whom any contest is decided.

Sec. 31. If the contest be for the validity of an election for Governor, Lieutenant Governor, Comptroller of Public Accounts, Treasurer, Commissioner of the General Land Office or Attorney General, the same shall be tried and determined by both houses of the Legislature in joint session, and the provisions of this chapter governing in the case of a contest for the validity of an election for members of the Legislature shall apply to and govern in a contest for the offices above named, as far as the same may be applicable.

Sec. 32. If the contest be for the validity of an election held for any other purpose than the election of an officer or officers in any county or part of a county or precinct of a county, or in any incorporated city, town or village, any resident of such county, precinct, city, town or village, or any number of such residents, may contest such election in the district court of such county in the same manner and under the same rules, as far as applicable, as are prescribed in this chapter for contesting the validity of an election for a county office.

Sec. 33. In any case provided for in the preceding section, the county attorney of the county, or where there is no county attorney the district attorney of the district, or the mayor of the city, town or village, or the officer who declared the official result of said election, or one of them, as the case may be, shall be made the contestee, and shall be served with notice and statement, and shall file his reply thereto as in the case of contest for office; but in no case shall the costs of such contest be adjudged against such contestee, or against the county, city, town or village which they may represent, nor shall such contestee be required to give any bond upon an appeal.

Sec. 34. All laws and parts of laws in conflict with this act be and are hereby repealed.

Sec. 35. The fact that there is no general law in force in this State regulating contested elections, and the great number of bills now requiring the attention of this Legislature, constitute an imperative public necessity that the constitutional rule requiring bills to be read in each house of the Legislature on three several days be suspended, and said rule is so suspended.

Approved April 16, 1895.

LANDS—SALE AND LEASE OF PUBLIC FREE SCHOOL, ASYLUM AND PUBLIC LANDS.

CHAP. 47.—[S. B. No. 95.] An act to provide for the sale of all lands heretofore or hereafter surveyed and set apart for the benefit of the public free schools and the several asylums, and the lease of such lands and of the public lands of the State, and the patenting of any part of said lands for church, cemetery or school house sites; and to prevent the free use, occupancy, unlawful enclosure or unlawful appropriation of such lands, and to prescribe and provide adequate penalties therefor.

Section 1. Be it enacted by the Legislature of the State of Texas: That all lands heretofore or hereafter surveyed and set apart for the benefit of the public free schools, the Lunatic Asylum, the Blind Asylum, the Deaf and Dumb Asylum, and the Orphan Asylum shall be sold and leased under the provisions of this act.

Sec. 2. The Commissioner of the General Land Office is hereby vested with all the power and authority necessary to carry into effect the provisions of this act, and shall have full charge and discretion of all matters pertaining to the sale and lease of said lands, and their protection from free use and occupancy and from unlawful enclosure, with such exceptions and under such restrictions as may be imposed by the provisions of this act, or by the Constitution of the State. He shall, as soon as practicable, adopt such regulations not inconsistent with the Constitution or this act as may be deemed necessary for carrying into effect the provisions of this act, and may from time to time alter or amend such regulations so as to protect the public interest; but all regulations shall be submitted to the Governor for his approval before adoption or promulgation. He shall adopt all necessary forms of applications for sales or leases and all other forms necessary or proper for the transaction of the business imposed upon him by this act, and may from time to time call upon the Attorney General to prepare such forms; and it shall be the duty of that officer to furnish the Commissioner of the General Land Office with such advice and legal assistance as may be requisite for the due execution of the provisions of this act; and it shall be the duty of such Commissioner to call upon the Attorney General for advice whenever there is any doubt as to the meaning of this act or any provisions thereof.

Sec. 3. The Commissioner of the General Land Office shall from time to time, as the public interest may require, cause any or all of the lands belonging to the several funds mentioned in this act to be carefully and skillfully classified and valued that have not heretofore been classified, and for this purpose he may appoint, with the approval of the Governor, such number of competent agents, who shall be citizens of the county or district where such land is situated, as may be necessary, or may determine and declare the classification and valuation without the aid of such agents, and upon such facts as may be satisfactory to the Commissioner. Such agents shall receive for their work a reasonable compensation, to be fixed by the Commissioner of the General Land Office, and not to exceed the sum of three dollars per section; and no such expense shall be incurred in the absence of an appropriation by law to cover such expenditure, and the State shall not be liable for any expenditure of this character incurred in excess of current appropriations.

Sec. 4. It shall be the duty of such agents as may be appointed under the provisions of this act, under such restrictions and instructions as may be prescribed by the Commissioner of the General Land Office, to classify such lands belonging to the several funds mentioned in this act as the Commissioner may direct, into agricultural, pasture, and timber lands, and for this purpose they shall carefully examine the same, and after such examination they shall prepare an accurate plat of each section, showing the relative proportions of timber and open land on such section, and their situation; also, the quality of the soil, the topography of the land, and the quality and kind of timber, and the streams and other sources of water supply, and their location, and such other facts as may be important; and from time to time, as may be prescribed by the Commissioner of the General Land Office, such agent shall prepare and forward to the Commissioner, with such plats, a tabulated statement of such lands so examined by him, with the value of each section, and such plats and reports when approved by the Commissioner, shall be filed in the General Land Office as a part of the records of said office; but nothing in this act shall be construed to require or authorize a classification of lands already classified under former laws: Provided, that any section or part of any section heretofore classified as timbered land which is not pine land nor valuable chiefly for the timber thereon may be classified under the provisions of this act as agricultural lands.

Sec. 5. When any portion of said land has been classified to the satisfaction of the Commissioner under the provisions of this act or former laws, such lands shall be subject to sale, but to actual settlers only, and in quantities of not less than forty acres, and in multiples thereof, nor more than one section containing six hundred and forty acres more or less: Provided, that when there is a fraction less than forty acres of any section left such fraction may be sold; but lands classified as purely pasture lands may be sold in quantities not to exceed four sections to the same settler.

Sec. 6. It shall be the duty of the Commissioner of the General Land Office to notify in writing the county clerk of each county of the valuation fixed upon each section of land in his county, and in each county attached to it for judicial purposes, which he offers for sale, which notification shall be kept by the clerk in his office and recorded in a well bound book, which shall be open to public inspection.

Sec. 7. All lands belonging to the public free schools and the several asylum funds shall be sold at no less than two dollars per acre, except pasture lands, which shall be sold at not less than one dollar per acre, and all timber lands shall be sold at not less than five dollars per acre. By timber lands as here used is meant lands valuable chiefly for the timber thereon.

Sec. 8. Any bona fide actual settler who may reside on any part of the lands the sale of which is authorized by this act at the time this act may go into effect, shall have the prior right for a period of ninety days after this act goes into effect, or after said land shall have been placed upon the market, to purchase such quantity of land as may be limited by this act, to include his improvements, upon complying with the provisions of this act regulating sales as in other cases, and such land shall be appraised without reference to the improvements thereon. Any bona fide settler who has heretofore purchased or who may hereafter purchase not

exceeding one section of agricultural land, shall have the right to purchase three strictly pastoral sections, upon his making oath that he is not acting in collusion with others for the purpose of buying for any other person or corporation, and that no other person or corporation is directly or indirectly interested in the purchase of the same.

Sec. 9. All sales shall be made by the Commissioner of the General Land Office, or under his direction, and he shall prescribe suitable regulations whereby all purchasers shall be required to reside upon as a home the land purchased by them for three consecutive years next succeeding the date of their purchase, except when otherwise provided. Such regulations shall require the purchaser to reside upon the land for three consecutive years herein mentioned, and to make proper proof of such residence and occupancy to the Commissioner of the General Land Office within two years next after the expiration of said three years, by his affidavit, corroborated by the affidavits of three disinterested and credible persons, to be certified by some officer authorized to administer oaths, and on making such proof the Commissioner shall issue to the purchaser, his heirs and assigns, a certificate showing that fact. If, however, any purchaser has sold his purchase, or any part thereof, his vendee shall be permitted to compute the time of the occupancy of his vendor as a part of his own occupancy; and if any person has sold the whole or any part of his purchase under this or any former law, his vendee, or if he refuses to do so, the vendor himself, may make proof of occupancy as provided herein. Any person desiring to purchase land in accordance with the provisions of this act shall forward his application to the Commissioner, describing the land sought to be purchased, which application shall be accompanied with the affidavit of the applicant, in effect that he desires to purchase the land for a home, and has in good faith settled thereon, except where otherwise provided herein, and he shall also swear that he is not acting in collusion with others for the purpose of buying the land for any other person or corporation, and that no other person or corporation is interested in the purchase thereof. Any owner of land heretofore purchased, and which land has been or may be forfeited for nonpayment of interest, shall have ninety days prior right after this act goes into effect, or after the land is again placed upon the market, to purchase said land without the condition of settlement and occupancy, in case it has been occupied for three consecutive years as required by law; but if not, then he shall reside thereon until the occupancy under the first and last purchase shall together amount to said term of three years: Provided, that when any forfeiture has been made the Commissioner of the General Land Office shall add to the appraised value of such land the amount of interest due thereon at the time of forfeiture, which shall be paid in cash with the first payment of one-fortieth of the appraised value of the land when purchased under the preference right to purchase given herein. Any original purchaser or his vendee of any of the lands the sale of which is provided for in this act, who has improved such land as a home, and who has been forced to temporarily abandon same on account of drouth, and who shall in good faith reoccupy the same, either by themselves or vendees, within six months after this act goes into effect, shall not have the forfeiture declared against them under the law providing for the forfeiture of such lands for non-occupancy: Provided, that they shall make affidavit, supported by the affidavit of three disinterested witnesses, that

they have reoccupied the land as a home in good faith, and that they had abandoned the same since their purchase on account of the drouth and not otherwise; and such absence shall not be deducted from the three years occupancy required by law in making final proof of occupancy: And provided further, that any purchasers or their vendees of such lands who have failed to make proof of occupancy as required by the law regulating such purchases shall have six months after this act shall take effect to make such proof of occupancy as required by the provisions of this act. The purchaser shall transmit to the Treasurer of the State one-fortieth of the aggregate purchase money for the particular tract of land, and send to the Commissioner his obligation to the State, duly executed, binding the purchaser to pay to the State on the first day of November of each year thereafter, until the whole purchase money is paid, one-fortieth of the aggregate price, with interest at the rate of three per cent per annum on the whole unpaid purchase money, which interest shall also be payable on the first day of November of each year; and upon receipt of one-fortieth of the purchase money by the Treasurer, and the affidavit and obligation aforesaid by the Commissioner, the sale shall be deemed and held effective from the date the affidavit and obligation are filed in the General Land Office: Provided, that if the land applied for be timbered land, then the purchaser shall be required to pay the full amount of the purchase money at the time of his purchase.

Sec. 10. Purchasers shall have the option of paying the purchase money for their lands in full at any time after they have occupied the same for three consecutive years; and when they have made such payment in full, together with the proof that they have occupied the land for three consecutive years, they shall receive patents for the same upon payment of the patent fees prescribed by law. Purchasers may also sell their lands or a part of the same, in quantities of forty acres or multiples thereof, at any time after the sale is effected under this act, and in such cases the vendee, or any subsequent vendee, or his heirs or legatees, shall file his own obligation with the Commissioner of the General Land Office, together with the duly authenticated conveyance or transfer from the original purchaser and the intermediate vendee's conveyance or transfer, if any there be, duly recorded in the county where the land lies or to which said county may be attached for judicial purposes, together with his affidavit, in case three years residence has not already been had upon said land and proof made of that fact, stating that he desires to purchase the land for a home, and that he has in good faith settled thereon, and that he has not acted in collusion with others for the purpose of buying the land for any other person or corporation, and that no other person or corporation is interested in the purchase, save himself, and thereupon the original obligation shall be surrendered or canceled or properly credited, as the case may be, and the vendee shall become the purchaser direct from the State, and be subject to all the obligations and penalties prescribed by this act, and the original purchaser shall be absolved in whole or in part, as the case may be, from further liability thereon: Provided, that whenever a town shall be located and established upon any lands sold under this or any former act, the purchaser or his vendee shall be permitted to pay the entire balance of principal and interest due the State upon such land and obtain a patent therefor at any time, but no such payment shall be permitted or patent

issued until such purchaser or owner of such land shall file in the General Land Office a certified plat of such town, made by a surveyor, which shall be accompanied by the affidavit of the owner of such land, corroborated by the affidavit of five disinterested and credible citizens of the county, to the effect that a town, giving its name, has been located and established upon the land, and that there has been erected therein, and is being occupied by bona fide citizens, twenty business and residence houses, or either, or both.

Sec. 11. If upon the first day of November of any year the interest due on any obligation remains unpaid, the Commissioner of the General Land Office shall endorse on such obligation "Land Forfeited," and shall cause an entry to that effect to be made on the account kept with the purchaser, and thereupon said land shall thereby be forfeited to the State without the necessity of re-entry or judicial ascertainment, and shall revert to the particular fund to which it originally belonged, and be resold under the provisions of this act or any future law: Provided, if any purchaser shall die, his heirs or legal representatives shall have one year in which to make payment after the first day of November next after such death, and shall be absolved and exempt from the requirement of settlement and residence thereon. And if any purchaser shall fail to reside upon and improve in good faith the land purchased by him, he shall forfeit said land and all payments made thereon to the State, in the same manner as for non-payment of interest, and such land shall be again for sale as if no such sale and forfeiture had occurred: Provided, that all necessary and temporary absence from such land of such purchaser, for the time of not more than six months in any one year, for the purpose of earning money with which to pay for the land, or for the purpose of schooling his children, shall not work a forfeiture of his title: Provided, further, that nothing in this section contained shall be construed to inhibit the State from instituting such legal proceedings as may be necessary to enforce such forfeiture, or to recover the full amount of the interest and such penalties as may be due the State at the time such forfeiture occurred, or to protect any other right to such land, which suits may be instituted by the Attorney General or under his direction, in the proper court of the county in which the land lies or of the county to which such county is attached for judicial purposes: Provided, this section shall be printed on the back of the receipt.

Sec. 12. In all cases where persons have purchased or may hereafter purchase State, school or asylum lands under any act of the Legislature authorizing the sale thereof and requiring a residence of three years thereon, and said persons have so resided upon said land or may hereafter reside thereon for the period of three years as required by law, and their files have been or may hereafter be cancelled and purchases annulled by the Commissioner of the General Land Office on account of conflict with other surveys, said persons shall have the right to purchase other lands of the classes mentioned in this act without being required to reside thereon. Persons desiring to avail themselves of the benefits of this provision shall make satisfactory proof to the Commissioner of the three years residence under their first purchase.

Sec. 13. In all cases where any of the lands mentioned in this act have been heretofore sold under any law authorizing the sale thereof, and the original purchaser shall have sold or may hereafter sell any part of his

purchase in quantities of forty acres or multiples thereof, and the conveyance to his vendee or vendees is filed in the General Land Office after having been duly recorded in the proper county, the Commissioner and Treasurer shall credit his account with the value of the land sold, and they shall open up new accounts with the original purchaser and such vendee or vendees, and the Commissioner of the General Land Office shall patent said land to the owners thereof in quantities of forty acres or multiples thereof: Provided, that when any of such land is situated within three miles of a county seat it may be patented in twenty acre tracts.

Sec. 14. The Commissioner of the General Land Office is hereby authorized to patent in quantities of not less than one nor more than five acres any of the vacant and unappropriated public domain of Texas or any of the lands mentioned in this act as sites for cemeteries, churches or school houses. When the land is desired as a location for a school house, the patent shall issue to the county judge of the proper county and his successors in office in trust for that purpose; and when desired for a church house or a cemetery, it shall be issued to trustees designated by those requesting the patent. If the land has been previously sold by the State and not patented, the owner thereof shall execute a deed therefor to the county judge or trustees as the case may be, and cause the same to be recorded in the office of the county clerk of the proper county, and to be filed in the General Land Office, and shall be entitled to credit on his account with the State for the value therefor. Except in case of vacant land the value of the land shall be deposited with the State Treasurer, and in all cases the patent fees shall be paid to the Commissioner of the General Land Office before patent issues. Such land shall be taken from the margin of a tract or section or of a subdivision thereof, as the case may be.

Sec. 15. The Commissioner of the General Land Office shall retain in his custody as records of his office all applications, affidavits, obligations and all other papers relating to the sales of said lands, and shall cause to be kept accurate accounts with each purchaser. All purchase money due upon lands, as well as accrued interest, and all other moneys arising from the sales or leases of said lands shall be paid by the purchaser or lessee direct to the Treasurer of the State, who shall cause an accurate account to be kept with each purchaser, and who shall execute duplicate receipts for all sums of money paid to him under the provisions of this act, one of which receipts shall be delivered to the purchaser or his agent, and the other transmitted to the Commissioner of the General Land Office.

Sec. 16. The Commissioner of the General Land Office shall adopt such regulations for the sale of the timber on the timbered lands as may be deemed necessary and judicious. Such timber shall not be sold for less than five dollars per acre, cash, except in such cases as the Commissioner may ascertain by definite examinations by an approved agent appointed by him for that purpose, to be paid by the purchaser, to be sparsely timbered or containing timber of but little value, in which case he may sell the timber on such sections or part of sections at its proper value: Provided, such timber is sold at not less than two dollars per acre. The purchaser shall have five years from the date of his purchase within which to remove the timber therefrom, and in case of failure to

do so, such timber shall thereby be forfeited to the State without judicial ascertainment: Provided, that all timbered lands from which the timber has been cut and taken off may be placed on the market and sold as agricultural or grazing lands, according to the classifications to be made by the Land Commissioner: Provided, that the purchaser or his vendees of any such timber shall have the right to purchase the land upon which such timber so purchased is situated at two dollars per acre, cash, at any time before the expiration of five years from date of purchase of timber under the provisions of this act.

Sec. 17. The public lands and all lands referred to in the several funds mentioned in this act shall be leased by the Commissioner of the General Land Office under the provisions of this act. All lands classified as agricultural and all lands containing permanent water thereon shall be leased for a term of five years or less at not less than three cents per acre per annum, and all lands classified as pasture or dry grazing lands shall be leased for a term of not more than ten years at not less than two cents per acre per annum, which rental shall be paid yearly in advance, the first payment to be made at the time the lease contract is entered into. If at the termination of any lease the lands covered thereby are still for lease the lessee thereof shall have the preference right to again lease such lands theretofore leased by him upon the terms and at the prices then fixed by law. All leases shall be executed under the hand and seal of the Land Commissioner and delivered to the lessee or his duly authorized agent, and such lease shall not take effect until the first annual rental is paid, and such lease thereof duly filed for record in the clerk's office of the proper county, and it shall not be necessary for the Commissioner to acknowledge such lease contract so signed and delivered; and all leases under the provisions of this act shall be advertised by the Commissioner in such manner as he may think best, and let to the highest responsible bidder in such quantities and under such regulations as he may think to the best interest of the State, not inconsistent with the equities of the occupant. All bids and offers to lease may be rejected by him prior to signing the lease contract, for fraud or collusion, or other good and sufficient cause.

Sec. 18. Any person desiring to lease any portion of the lands belonging to any of the funds mentioned in this act shall make application in writing to the Commissioner of the General Land Office, specifying and describing the particular lands he desires to lease, and thereupon the Commissioner, if satisfied that the lands applied for are not in immediate demand for purposes of actual settlement, shall notify the applicant in writing that his proposition to lease is accepted, and thereupon he shall execute and deliver to the lessee, in the name and by the authority of the State of Texas, a lease of said land for such term as may be agreed upon, and deliver the same to such lessee when satisfied that the lessee has paid to the Treasurer of the State the rent for one year in advance. No lands which are now or may hereafter be classified as grazing or pasture lands shall be subject to sale, nor shall the possession thereof by the lessee be disturbed during the term of such lease, except as herein provided, so long as the rents are paid promptly in advance each year, as required by this act. Any actual settler upon any of the lands mentioned in this act, being the head of a family, shall have the right to buy at any time not more than three additional sections of strictly pasture lands, notwith-

standing any lease thereof, unless by some other actual settler, the head of a family, leasing not more than three sections. Whenever any leaseholder has leased from the State of Texas exceeding ten sections, any actual settler, being the head of a family, shall have the right to lease within a radius of five miles of the land occupied by him not exceeding three sections of the land held by such larger leaseholder, but shall not be allowed thereby to reduce the larger leasehold to less than ten sections: Provided, that any man not the head of a family shall have this preference right to lease three sections after having placed two hundred dollars worth of improvements on the section purchased by him: Provided, that in all cases where the actual settler having purchased one section of land is permitted by the provisions of this section to buy or lease additional lands, and thus terminate the lease of the larger leaseholder, he shall be required to so select such additional lands sought to be purchased or leased by him as that by an exchange of lands, section for section and acre for acre, of like quality and class with the larger leaseholder, he can secure the quantity of land he desires to purchase or lease in a solid body; and in case the larger leaseholder desires to do so the actual settler so purchasing or leasing the additional lands in this section mentioned shall make such exchange with him, and shall be required to fence the same separate and apart from the lands of the larger leaseholder; but in no case shall the actual settler be allowed to purchase or lease the lands and terminate the lease of the larger leaseholder under the provisions of this section upon which there is a permanent natural or artificial water supply; and in no case shall such actual settler be permitted to so select such additional lands for purchase or lease as that by an exchange of lands with the larger leaseholder such larger leaseholder will be required to give in exchange any lands upon which there may be a permanent natural or artificial water supply, or upon which there may be improvements of the value of two hundred dollars. In case the larger leaseholder does not desire to exchange lands, as herein provided, with the actual settler, or upon request made by such actual settler refuses to do so within a reasonable time, then he shall not be required to fence his land, but may turn loose inside of any inclosure in which his lands may be situated not more than one head of cattle or horses, or in lieu thereof four head of sheep or goats, for every ten acres of land so purchased or leased by him: Provided further, that nothing herein shall be construed so as to prevent either lessee from fencing his own land from the other if he should desire to do so, or to require the small leaseholder to fence his lands at all unless the larger leaseholder shall have his leasehold fenced: And provided further, that nothing in this section shall be so construed as to permit any actual settler, either by purchase or lease, or by both, to terminate the lease of the larger leaseholder upon more than four sections: And provided further, that north of a line extending west from the southeast corner of Callahan county to the southeast corner of Martin county; thence north to the south line of Lynn county; thence west to the southwest corner of Lynn county; thence north to the south line of Castro county; thence west to the line of New Mexico, the settler exercising the preference right herein given to buy or lease within the enclosure of another may so buy or lease any lands except a section on which there are improvements of the value of two hundred dollars, or on which there is a permanent artificial water supply, and shall not be required to enclose his lands separate from the

lands of the larger leaseholder unless he can obtain the full amount of four sections in a solid body, or unless the same can be secured in a solid body by exchange of lands for the term for which he leases, section for section or acre for acre, with the larger leaseholder; and in all cases where he is not required by the provisions of this act to enclose his lands he may turn loose not more than one head of horses or cattle, or in lieu thereof four head of sheep or goats, for every ten acres of land purchased or leased by him and unenclosed. Each violation of the provisions of this act which restricts the number of stock that may be turned loose on lands leased from the State shall be an offense, and the offender, on conviction, shall be punished by fine of one dollar for each head of stock he may so turn loose, and each thirty days violation of the provisions of this section shall constitute a separate offense. Any agricultural land that may be leased by an actual settler shall be subject to sale and settlement, but in case his lease does not embrace more than three sections, only on condition that the purchaser enclose with posts and at least two wires the land purchased by him separate from the land held by the lessee, and failure to so enclose it within three months from the date of the purchase shall be sufficient cause to authorize the Commissioner to cancel the contract of purchase and reinstate the lease. In all cases where the lease is terminated under any of the provisions hereof, before the expiration of the term of lease, the lessee shall have a pro rata credit upon his next year's rent, or the money refunded to him by the Treasurer, as he may elect. On the expiration of his lease or its termination under any provision of this section the lessee shall have the right for a period of sixty days to remove any or all the improvements he shall have placed upon the leased premises.

Sec. 19. Any person desiring to lease any portion of the lands aforesaid on which no permanent water supply exists, shall notify the Commissioner of the General Land Office in writing that he desires to lease lands, specifying and describing them, provided he can obtain the necessary supply of water by boring or otherwise, and that he will within ninety days lease said lands, provided such water supply can be obtained; he shall also make and file with the Commissioner of the General Land Office his bond, with good and sufficient personal security in a sum equal to one year's rental of the quantity of land applied for, payable to the State of Texas, conditioned that he will diligently and in good faith try to secure water on such land during such ninety days, and if secured will lease the designated lands for the term prescribed herein, and thereupon the Commissioner shall for such ninety days withhold the lands thus designated from lease to any other person; within or at the expiration of said ninety days and annually thereafter such applicant to lease shall pay to the State of Texas, in advance, one year's rental of the land applied for by him, on satisfactory proof of which payment the Commissioner shall execute and deliver to the lessee a lease of the said lands, signed by himself officially and attested by the seal of the Land Office, together with which he shall deliver up the bond of said lessee, marked "Satisfied." If the said lessee shall fail to apply for his lease and make the payment aforesaid within said ninety days, and shall also within said ninety days fail to make proof to the satisfaction of the Commissioner of the General Land Office within that time that he has in good faith and diligently used proper means and expended proper efforts to secure a

water supply on such land and failed, then and in that case the Commissioner shall mark said bond "Forfeited," and shall deliver the same to the Attorney General of the State, who shall at once cause the said bond to be sued upon and collected; and such collection shall become a part of the available school fund. The penalty stated in such bond is hereby declared to be liquidated damages, and judgment for that sum shall in all cases be recovered by the State. Proof satisfactory to the Commissioner of the General Land Office that proper, suitable and diligent effort had been made by such applicant to secure water, and that sufficient water could not be secured, shall relieve the principal and sureties on said bond from all responsibility therein, and it shall be marked "Satisfied" by said Commissioner and delivered to the principal therein. No lease of less than four sections of unwatered pasture lands shall be made unless such less number includes all unleased land in that vicinity belonging to the several funds mentioned in this act. Lessees or their vendees who shall have at their own expense secured water on their leaseholds in accordance with the provisions of this section shall, at the expiration of their lease contract, have the right to a renewal of their leases for another term of five years at the price then provided by law, by giving sixty days written notice to the Commissioner, as provided in the preceding section.

Sec. 20. All lessees from the State of lands named in this act, who are one year or more in arrears on their contracts for rent, shall have the right for the period of four months from the time this act shall go into effect, but not longer, within which they may execute and deliver to the Commissioner of the General Land Office their respective obligations in writing, with personal security satisfactory to the Commissioner, for the respective sums of money then owing by them to the State; and on delivery of such obligation to the Commissioner and the cash payment of one year's rental in advance, they shall have the right to have their lease contracts cancelled, and may lease such lands anew under this act. Such obligation shall bind such lessees to pay said sums of money, one-third in one year, one-third in two years, and the remainder in three years from date, and shall draw six per cent interest per annum, payable annually; and thereupon the Commissioner shall balance their accounts on the books of his office and cancel and deliver up their old leases and make to them new leases under this act. All lessees who are not in arrears for rent or who shall pay all indebtedness on leases, have the right to surrender their present leases and lease anew their said lands under this act.

Sec. 21. All lessees shall pay the annual rents due for leased lands directly to the Treasurer of the State, who shall execute receipts in duplicate for each payment made by any lessee, one of which receipts shall be delivered to the lessee and the other transmitted to the Commissioner of the General Land Office. The Treasurer shall cause to be kept an accurate account with each lessee, and the Commissioner of the General Land Office shall file in his office all applications and other papers relating to leases, and keep a record of all leases made, which papers shall constitute a part of the records of his office.

Sec. 22. If any lessee shall fail to pay the annual rent due in advance for any year within sixty days after such rents shall become due, the Commissioner of the General Land Office may declare such lease cancelled by a writing under his hand and seal of office, which writing shall

be filed with the other papers relating to such lease, and thereupon such lease shall immediately terminate, and the lands so leased shall become subject to purchase or lease under the provisions of this act. Such lease shall not be made to original lessees until all arrears are fully paid. During the continuance of all leases, and after forfeiture, the State shall have a lien upon all property owned by the lessee upon the leased premises to secure the payment of all rents due, which lien shall be superior to all other liens whatsoever; and it shall not be essential to the preservation or validity of such lien that it shall be reserved in the instrument of lease.

Sec. 23. Lessees shall have the right at any time to purchase their leased lands, subject to the limitations as to quantity provided by this act, and at the price and on the conditions herein provided, without reference to any improvements made on such lands by such lessees; and all improvements made by lessees on lands leased by them are hereby declared to be personal property, which may be removed by such lessees on the expiration of their lease contracts; and they shall have sixty days after such expiration in which to remove the same.

Sec. 24. If the Governor shall at any time be informed upon the affidavit of some credible person that any portion of the public lands or the lands belonging to any of the several funds named in this act have been enclosed, or that fences have been erected thereon without authority of law, he is authorized in his discretion to direct the Attorney General to institute suit in the name of the State for the recovery of such lands and damages, and a fee of not less than ten dollars for the attorney when the sum recovered is less than one hundred dollars, and when it is over that sum the fee shall be ten per cent, to be paid by the defendant for the use and occupancy of the same, and the removal of such enclosures and fences and such damages shall not be for a less sum than the amount of all the leases due during such occupancy. Such suit may be instituted in the district court of the judicial district in which the land or any portion thereof [is] situated; and upon application of the Attorney General and without affidavit or bond the court in which suit is pending shall issue a writ of sequestration directed to any sheriff of the State, commanding and requiring such officer to take such land and all property thereon belonging to the person or persons so unlawfully occupying said land into his actual custody, and hold the same subject to the further orders of the court. Such writ of sequestration may be executed by any sheriff of the State into whose hands it may be delivered, and it shall be the duty of any sheriff into whose hands it may come to proceed and execute such writ. The defendant in such suit may replevy as in ordinary cases by giving bond as prescribed by law, and such cases shall have precedence on the docket and stand for trial before all other cases; and in case judgment is recovered by the State in such suit, the court shall order such enclosures or fences to be removed and shall tax the costs of the suit, if any, against the defendant; and all property found upon the land belonging to the defendant, not exempt from execution, shall be liable to the payment of such costs and damages in addition to the personal liability of the defendant. Appeals may be prosecuted from all judgments in such cases as in ordinary cases, except that the State shall not be required to give bond to perfect its appeal, and such cases on appeal shall have precedence over all other cases. If any person shall make a lease contract, and after the same is enclosed by fence shall for any cause decide not to

continue payment of his lease, either in whole or in part, he shall give public notice by publication in any local paper having the largest circulation, for at least sixty days before the time in which his next annual payment shall become due, that he will not continue his lease after the year for which payment is made, and shall also state the number and block of the land which he will not lease inside his enclosure, if he only intends to surrender a part of his lease, and shall post and keep posted for said sixty days notices on all the gates of his pasture of such intention; then, and then only, he shall not be subject to the suit nor be liable for the damages provided for in this section.

Sec. 25. It shall be unlawful for any person to fence, use, occupy or appropriate by herding or line riding, any portion of the public lands of the State, or of the lands belonging to any particular fund specified in this act, without having first obtained a lease of such lands in accordance with the provisions of this act. Any person, whether owner of stock, manager, agent, employee or servant, who shall fence, use, occupy or appropriate by herding or line riding any portion of such lands without a lease thereof, shall be deemed guilty of a misdemeanor, and shall, upon conviction, be fined not less than one hundred nor more than one thousand dollars, and in addition thereto shall be imprisoned in the county jail for a period of not less than three months nor more than two years. Each day of such fencing, occupying, using or appropriating by herding or line riding shall be deemed a separate offence, and any person so offending may be prosecuted by indictment or information in the proper court of the county where any portion of the land lies, or to which it may be attached for judicial purposes, or in the county of Travis, and jurisdiction of such offences is hereby vested in said courts; and in case any indictment or information is preferred or filed against a non-resident of this State for a violation of this article, it shall be the duty of the Governor to demand the extradition of the defendant from the proper officer of any State or Territory where he may be found, in order that he may be brought to trial. "Fencing," within the meaning of this article, is the erection of any structure of wood, wire or both, or any other material intended to prevent the passage of cattle, horses, mules, asses, sheep, goats or hogs, whether the same shall enclose lands on all sides or be erected on one or more sides. Any appropriation of land belonging to any particular fund specified in this act or of the public lands of this State, without having first obtained a lease thereof, by fencing of any kind, or by enclosures consisting partly of fencing and partly of natural obstacles or impediments to the passage of live stock, shall be deemed an unlawful appropriation punishable as provided in this article for appropriating such lands, and each day said land is appropriated shall be deemed a separate offense.

Sec. 26. The Commissioner of the General Land Office may withhold from lease any agricultural lands necessary for purposes of settlement; and no agricultural lands shall be leased if in the judgment of the Commissioner they may be in immediate demand for settlement, but such lands shall be held for settlement and sold to actual settlers only under the provisions of this act; and all sections or fractions of sections in all counties organized prior to the first day of January, 1875, except El Paso, Pecos and Presidio counties, which sections are detached and isolated from other public lands, may be sold to any purchaser except to a

corporation, without actual settlement, at not less than two dollars per acre, upon such terms as the Commissioner of the General Land Office may prescribe.

Sec. 27. All laws and parts of laws in conflict with this act are hereby repealed.

Sec. 28. The inadequate provisions under the present law for support of the public free schools and the necessitous condition of the available school fund creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 4th day of April, A. D. 1895, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Tom C. Thornton, Acting Secretary of State.]

LANDS—AMENDMENT TO SENATE BILL NO. 95.

CHAP. 48.—[S. B. No. 299.] An act to repeal section 20 and to amend sections 17 and 24 of Senate bill No. 95, entitled "An act to provide for the sale of all lands heretofore or hereafter surveyed and set apart for the benefit of the public free schools and the several asylums, and the lease of such lands, and of the public lands of the State, and the patenting of any part of said lands for church, cemetery, or school house sites; and to prevent the free use, occupancy and unlawful enclosure or unlawful appropriation of such lands; and to prescribe and provide adequate penalties therefor," passed at the present session.

Section 1. Be it enacted by the Legislature of the State of Texas: That section 20 of Senate bill No. 95, entitled "An act to provide for the sale of all lands heretofore or hereafter surveyed and set apart for the benefit of the public free schools and the several asylums, and the lease of such lands, and of the public lands of the State, and the patenting of any part of said lands for church, cemetery or school house sites; and to prevent the free use, occupancy and unlawful enclosure or unlawful appropriation of such lands, and to prescribe and provide adequate penalties therefor," passed at the present session, be and the same is hereby repealed, and sections 17 and 24 of said act be and the same are hereby amended so as to hereafter read as follows:

Section 17. The public lands and all lands referred to in the several funds mentioned in this act shall be leased by the Commissioner of the General Land Office under the provisions of this act, at not less than three cents per acre. All lands classified as agricultural and all lands containing permanent water thereon shall be leased for a term of five years or less, and all lands classified as pastoral or dry grazing lands shall be leased for a term of not more than ten years, and the rental shall be paid yearly in advance, the first payment to be made at the time the lease contract is entered into. If at the termination of any lease the lands covered thereby are still for lease, the lessee thereof shall have the

preference right to again lease such lands theretofore leased by him upon the terms and at the price then fixed by law. All leases shall be executed under the hand and seal of the Land Commissioner and delivered to the lessee or his duly authorized agent, and such lease shall not take effect until the first annual rental is paid and such lease thereof duly filed for record in the clerk's office of the proper county, and it shall not be necessary for the Commissioner to acknowledge such lease contract so signed and delivered; and all leases under the provisions of this act may be advertised by the Commissioner in such manner as he may think best, and let to the highest responsible bidder in such quantities and under such regulations as he may think to the best interest of the State not inconsistent with the equities of the occupant. All bids and offers to lease may be rejected by him prior to signing the lease contract, for fraud or collusion or other good and sufficient cause.

Section 24. If the Governor shall at any time be credibly informed that any portion of the public lands or the lands belonging to any of the several funds named in this act have been enclosed or that fences have been erected thereon without authority of law, he is authorized in his discretion to direct the Attorney General to institute suit in the name of the State for the recovery of such lands and damages, and a fee of not less than ten dollars for the attorney when the sum recovered is less than one hundred dollars, and when it is over that sum the fee shall be ten per cent, to be paid by the defendant for the use and occupancy of the same, and the removal of such enclosures and fences; and such damages shall not be for a less sum than the amount of all the leases due during such occupancy. For the recovery by the State of all lands sold under the provisions of this or former laws which have been or may hereafter be forfeited to the State for any reason, and for the recovery of any money due the States on leases made under this or former laws, and for the recovery of damages for the unlawful use and occupancy of such lands, as provided in this section, or any former laws, jurisdiction is expressly conferred on the courts of Travis county having jurisdiction thereof under the Constitution concurrently with courts of the districts in which the land is situated, and all such suits shall be instituted by the Attorney General or under his direction. In suits provided for in this section, the court shall issue a writ of sequestration directed to any sheriff of the State, commanding and requiring such officer to take such land and all property thereon belonging to the person or persons so unlawfully occupying said lands into his actual custody, and hold the same subject to further orders of the court, and the State shall not be required to give bond. Such writ of sequestration may be executed by any sheriff of the State into whose hands it may be delivered, and it shall be the duty of any sheriff into whose hands it may come to proceed and execute such writ. The defendant in such suit may replevy as in ordinary cases by giving bond as prescribed by law, and such cases shall have precedence on the docket and stand for trial before all other cases; and in case judgment is recovered by the State in such suit the court shall order such enclosure or fences to be removed, and shall tax the costs of the suit against the defendant, and all property found upon the land belonging to the defendant, not exempt from execution, shall be liable to the payment of such costs and damages in addition to the personal liability of the defendant. Appeals may be prosecuted from all judgments in such

cases as in ordinary cases, except that the State shall not be required to give bond to perfect its appeal, and such cases on appeal shall have precedence over all other cases. If any person shall make a lease contract, and after the same is inclosed by fence shall for any cause decide not to continue payment of his lease, either in whole or in part, he shall give public notice by publication in any local paper having the largest circulation, for at least sixty days before the time in which his next annual payment shall become due, that he will not continue his lease after the year for which payment is made, and shall also state the number and block of the land which he will not lease inside his inclosure, if he only intends to surrender a part of his lease, and shall post and shall keep posted for said sixty days notice on all gates of his pasture of such intention; then, and then only, he shall not be subject to the suit nor liable for the damages provided for in this section.

Sec. 2. The inadequate provisions of the present laws in reference to the support of the public free schools and the necessitous condition of the available school fund creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved April 16, 1895.

JUDICIAL DISTRICT—THIRTY-EIGHTH.

CHAP. 49.—[S. B. No. 266.] An act to amend section 1, chapter 29, of an act passed at the regular session of the Twenty-third Legislature of the State of Texas, approved March 15, 1893, entitled "An act to amend section 38, chapter 141, of an act passed at the regular session of the Twenty-first Legislature of the State of Texas, approved March 30, 1889, entitled an act to amend chapter 61, an act entitled an act to amend section 38 of an act entitled an act to redistrict the State into judicial districts, and fix the times for holding courts therein, and to provide for the election of judges and district attorneys in such districts at the next general election, to be held on the first Tuesday after the first Monday in November, 1884, approved April 9, 1883, granting an extension of time for the holding of the district court of Comal county," extending the time for holding the district court in Kerr county.

Section 1. Be it enacted by the Legislature of the State of Texas: That section 1 (one), chapter 29, passed at the regular session of the Twenty-third Legislature of the State of Texas, approved March 15, 1893, entitled "An act to amend section 38, chapter 141, of an act passed at the regular session of the Twenty-first Legislature of the State of Texas, approved March 30, 1889, entitled an act to amend chapter 61, an act entitled an act to amend section 38 of an act entitled an act to redistrict the State into judicial districts, and fix the times for holding court therein, and to provide for the election of judges and district attorneys in said district at the next general election, to be held on the first Tuesday after the first Monday in November, 1884, approved April 9, 1883, granting an extension of time for the holding of the district court of Comal county," be amended so as to hereafter read as follows:

Sec. 38. The Thirty-eighth Judicial District shall be composed of the

counties of Bandera, Comal, Kendall, Kerr, Medina and Uvalde, and the district courts shall be held as follows:

In the county of Bandera on the fifth Monday after the first Mondays in March and September, and may continue in session two weeks.

In the county of Kendall on the seventh Monday after the first Mondays in March and September, and may continue in session two weeks.

In the county of Kerr on the ninth Monday after the first Mondays in March and September, and may continue in session three weeks.

In the county of Comal on the twelfth Monday after the first Mondays in March and September, and may continue in session three weeks.

In the county of Medina on the fifteenth Monday after the first Mondays in March and September, and may continue in session four weeks.

In the county of Uvalde on the nineteenth Monday after the first Mondays in March and September, and may continue in session until the business is disposed of.

Sec. 2. All laws and parts of laws in conflict with this act are hereby repealed.

Sec. 3. The crowded condition of the dockets of the district court of Kerr county, together with the increase of business of the district court of Kerr county, thereby rendering it impossible to reach a trial in many of the causes pending in said court by reason of the limit of time as it now exists in which to hold the district court for said county, and the fact that the district court for said county will soon convene, creates an emergency and amounts to an imperative public necessity demanding the suspension of the rule requiring bills to be read on three several days in both houses, and such rule is hereby suspended, and it is further enacted that this act shall be in force and shall take effect from and after its passage.

Approved April 16, 1895.

OCCUPATION TAX ON CERTAIN PUBLICATIONS.

CHAP. 50.—[S. H. B. No. 556.] An act to provide for levying a tax on the occupation of selling or offering for sale the "Sunday Sun," the "Kansas City Sunday Sun," or other publications of like character, whether illustrated or not.

Section 1. Be it enacted by the Legislature of the State of Texas: There shall be levied on and collected from every person, firm or association of persons selling or offering for sale the "Sunday Sun," the "Kansas City Sunday Sun," or other publications of like character, whether illustrated or not, the sum of five hundred dollars in each county in which sale may be made or offered to be made.

Sec. 2. The near approach of the close of the present session of the Legislature and the large number of bills now pending on the calendar, and the fact that the occupation herein taxed is not now taxed by law, creates an emergency and a public necessity exists that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved April 16, 1895.

PUBLIC BUILDINGS—PASS KEYS.

CHAP. 51.—[S. B. No. 210.] An act for the better protection of the public buildings of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas: That it shall not be lawful for any person to make or have made, or to keep in his possession, a pass or master key to the rooms and apartments in the State capitol, unless authorized to do so by the Superintendent of Public Buildings and Grounds, and any person violating the provisions of this act shall be deemed guilty of a misdemeanor, and on conviction shall be fined in any sum not exceeding one hundred dollars.

Sec. 2. The evil to be reached by the passage of this bill creates an emergency and a public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect from its passage, and it is so enacted.

Approved April 19, 1895.

RAPE—OFFENSE OF.

CHAP. 52.—[S. B. No. 59.] An act to amend article 528, of title 15, chapter 7, of the Penal Code of the State of Texas, relating to the offense of rape.

Section 1. Be it enacted by the Legislature of the State of Texas: That article 528 of the Penal Code of the State of Texas be so amended as to hereafter read as follows:

Article 528. Rape is the carnal knowledge of a woman without her consent, obtained by force, threats, or fraud, or the carnal knowledge of a woman other than the wife of the person having such carnal knowledge with or without consent, and with or without the use of force, threats, or fraud, such woman being so mentally diseased at the time as to have no will to oppose the act of carnal knowledge, the person having carnal knowledge of her knowing her to be so mentally diseased; or the carnal knowledge of a female under the age of fifteen years, other than the wife of the person, with or without her consent, and with or without the use of force, threats, or fraud.

Approved April 19, 1895.

COURTS OF CIVIL APPEALS—TRANSFER OF CASES FROM ONE TO ANOTHER.

CHAP. 53.—[S. B. No. 49.] An act to give jurisdiction to the several Courts of Civil Appeals over cases transferred from one of such courts to another under the direction of the Supreme Court, and providing for the transfer of such cases.

Section 1. Be it enacted by the Legislature of the State of Texas: It shall be the duty of the Supreme Court to equalize as nearly as practicable the amount of business upon the dockets of the different Courts of Civil

Appeals by directing the transfer of cases from such of said courts as may have the greater number of cases upon their dockets to those having a less amount of business upon their dockets; such transfers to be made as soon as practicable after the passage of this act, and thereafter at least once a year, in such manner and under such rules and regulations as the Supreme Court shall provide. And the said Courts of Civil Appeals to which such cases shall be transferred shall have jurisdiction of all such cases transferred without regard to the districts in which such cases were originally tried and returnable on appeal: Provided, that cases transferred from any Court of Civil Appeals shall be taken by consecutive numbers in the order in which they stand upon the docket.

Sec. 2. Whereas, it is of great importance and the public interests demand that the business of said courts shall be equalized as soon as practicable, there is an emergency and imperative public necessity requiring a suspension of the rules requiring bills to be read on three several days, the rule is therefore suspended; and this act shall take effect and be in force from and after its passage, and it is so enacted.

Approved April 19, 1895.

GUARDIANS AD LITEM—APPOINTMENT OF.

CHAP. 54.—[S. B. No. 44.] An act to amend article 1211, title 29, chapter 5, of the Revised Civil Statutes of the State of Texas, relating to the appointment of guardians ad litem.

Section 1. Be it enacted by the Legislature of the State of Texas: That article 1211, title 29, chapter 5, of the Revised Civil Statutes of the State of Texas, be amended so as hereafter to read as follows:

Article 1211. In all cases when a minor, lunatic, idiot or a non compos mentis may be a defendant to a suit, and it shall be shown to the court that such minor, lunatic, idiot or non compos mentis has no guardian within the State, it shall be the duty of the court to appoint a guardian ad litem for such minor, lunatic, idiot or non compos mentis for the purpose of defending such suit, and to allow him a reasonable compensation for his services, to be taxed as a part of the costs of suit.

Approved April 19, 1895.

INSURANCE COMPANIES—OCCUPATION TAX.

CHAP. 55.—[H. B. No. 412.] An act to impose an occupation tax upon general and local agents of life, fire, marine and accident insurance companies doing business in this State.

Section 1. Be it enacted by the Legislature of the State of Texas: That there is hereby imposed upon and shall be collected from each and every person or firm acting as general agent or agents of life, fire, marine and accident insurance companies who may transact any business as such in

this State, an annual occupation tax of fifty dollars. By "general agent," as used in this act, is meant any person or firm representative of any insurance company in this State, or who exercises a general supervision over the business of such insurance company in this State, or over the local agencies thereof in this State or any subdivision thereof.

Sec. 2. That there is hereby imposed upon and shall be collected from each and every person or firm acting as local agent or agents of life, fire, marine and accident insurance companies who may transact any business as such in this State, an annual occupation tax of seven dollars. By "local agent," as used in this act, is meant any person or firm who may solicit, contract for or receive premiums for insurance in this State for any insurance company or companies, or who may deliver contracts or policies of insurance, including railway agents and employees who may solicit or receive premiums for accident insurance in this State: Provided, that local agents shall pay county occupation taxes in each and every county in which they do business.

Sec. 3. That there is hereby imposed upon and shall be collected from each and every person or firm acting as local agent or agents of industrial life insurance companies who may transact any business as such in this State, an annual occupation tax of two dollars. By "industrial life insurance," as used in this section, is meant insurance adapted to the wants and necessities of the wage earners in that the policies are small and the premiums collected weekly at the homes of the insured. The maximum policy or insurance written on any one person being one thousand dollars.

Sec. 4. Whereas, there is now no occupation tax upon general and local agents for life, fire, marine, industrial and accident insurance companies in this State, therefore an emergency is created and an imperative public necessity exists that the constitutional rule requiring bills to be read on three several days be suspended, and it is so enacted.

Approved April 20, 1895.

STATE AND COUNTY OFFICES—ELIGIBLE FOR.

CHAP. 56.—[H. B. No. 93.] An act to better define who are eligible for the several State and county offices of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas: That no person shall be eligible to any county or State office in the State of Texas unless he shall have resided in this State for the period of twelve months, and six months in the county in which he offers himself as a candidate next preceding any general or special election, and shall have been an actual bona fide citizen in said county for more than six months.

Sec. 2. Be it further enacted, that there shall not be issued by the county judge of any county in this State to any person elected or appointed to any office in this State a certificate of election unless he shall have resided in this State for the period of twelve months, and having been an actual bona fide citizen of said county for more than six months

in the county or district in which he offers himself for election next preceding any general or special election.

Sec. 3. Whereas, there is now no law better defining who are eligible for the several State and county offices, creates an emergency, and imperative public necessity demands that the constitutional rule which requires bills to be read on three several days in each house be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved April 20, 1895.

JUDICIAL DISTRICTS—TWENTY-FOURTH AND THIRTY-SIXTH.

CHAP. 57.—[H. B. No. 708.] An act to reorganize the Twenty-fourth and Thirty-sixth Judicial Districts; to name the counties composing the same; to fix the time for holding the district courts therein; to provide for the issuance and return of process therein, and to repeal all laws in conflict herewith.

Section 1. Be it enacted by the Legislature of the State of Texas: That the Twenty-fourth Judicial District shall be composed of the counties of Refugio, Bee, Karnes, Goliad, Calhoun, Victoria and De Witt, and the terms of the district court therein shall be held each year as follows:

In the county of Refugio on the second Monday of February and on the first Monday of September, and may continue in session one week.

In the county of Bee on the first Mondays after the second Monday in February and the first Monday in September, and may continue in session three weeks.

In the county of Karnes on the fourth Mondays after the second Monday in February and the first Monday in September, and may continue in session three weeks.

In the county of Goliad on the seventh Mondays after the second Monday in February and the first Monday in September, and may continue in session three weeks.

In the county of Calhoun on the tenth Mondays after the second Monday in February and the first Monday in September, and may continue in session one week.

In the county of Victoria on the eleventh Mondays after the second Monday in February and the first Monday in September, and may continue in session four weeks.

In the county of De Witt on the fifteenth Mondays after the second Monday in February and the first Monday in September, and may continue in session until the business is disposed of.

Sec. 2. The Thirty-sixth Judicial District shall be composed of the counties of Aransas, San Patricio, Live Oak, McMullen, LaSalle, Dimmit, Zavala, Frio and Atascosa, and the terms of the district court shall be held therein as follows:

In the county of Aransas on the second Mondays in February and August, and may continue in session two weeks.

In the county of San Patricio on the fourth Mondays in February and August, and may continue in session two weeks.

In the county of Live Oak on the second Mondays in March and September, and may continue in session two weeks.

In the county of McMullen on the third Mondays after the first Mondays in March and September, and may continue in session one week.

In the county of Atascosa on the fourth Mondays after the first Mondays in March and September, and may continue in session three weeks.

In the county of Frio on the seventh Mondays after the first Mondays in March and September, and may continue in session two weeks.

In the county of LaSalle on the ninth Mondays after the first Mondays in March and September, and may continue in session two weeks.

In the county of Zavala on the eleventh Mondays after the first Mondays in March and September, and may continue in session one week.

In the county of Dimmit on the twelfth Mondays after the first Mondays in March and September, and may continue one week.

Sec. 3. That all process issued or served before this act goes into effect returnable to the district courts in said judicial districts shall be considered returnable to said courts in accordance with the terms as prescribed by this act, and all such process is hereby legalized; and all grand and petit juries drawn and selected under existing laws in any of the counties of said judicial districts shall be considered lawfully drawn and selected for the next terms of the district courts of their respective counties held after this act takes effect, and all such process is hereby legalized and validated.

Sec. 4. That all laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

Sec. 5. The importance of the passage of this act to the people of the various counties of the said judicial districts, the crowded condition of the calendars of each house, and the near approach of the close of the present session of the Legislature, create an imperative public necessity and emergency requiring that the constitutional rule that bills be read on three several days in each house be suspended, and the said rule is therefore suspended.

Approved April 20, 1895.

JUDICIAL DISTRICT—TWENTY-SECOND.

CHAP. 58.—[H. B. No. 683.] An act to fix the times and to regulate the terms for holding district court in Hays and Caldwell counties, in the Twenty-second Judicial District of Texas, and to repeal all laws conflicting herewith.

Section 1. Be it enacted by the Legislature of the State of Texas: That the term of the District court of Hays county in the Twenty-second Judicial District of Texas shall commence on the first Mondays in March and September of each year, and may continue in session four weeks; and the terms of the district court of Caldwell county in said judicial district shall commence on the first Mondays in April and October of each year, and may continue in session five weeks.

Sec. 2. All laws and parts of laws conflicting herewith are hereby repealed.

Approved April 20, 1895.

STOCK LAW.

CHAP. 59.—[H. B. No. 725.] An act to amend articles 4606, 4607 and 4608 of title XCIII, chapter 4, of the Revised Civil Statutes of the State of Texas, relating to the mode of preventing certain animals from running at large in counties and subdivisions thereof.

Section 1. Be it enacted by the Legislature of the State of Texas: That articles 4606, 4607 and 4608 of title XCIII, chapter 4, of the Revised Civil Statutes of the State of Texas be amended so to hereafter read as follows:

Article 4606. Any owner, lessee, or person in lawful possession of enclosed lands shall be entitled to the following fees for impounding stock, to-wit: ten cents per day per head for hogs, ten cents per day per head for goats, and five cents per head per day for sheep. The damages done by such stock, if any, and the fees due to the taker up of stock, if any, may be assessed by any three disinterested freeholders of the subdivision in which said stock is taken up, who shall upon the application of the taker up of the stock be appointed by the justice of the peace of the precinct in which such subdivision is situated. Where said justice shall fail or refuse to make appointment, or where the stock law has been adopted by an entire county, said freeholders shall be appointed by the county judge of the county. Said freeholders after being duly sworn to discharge with impartiality the duties devolving upon them by said appointment, shall proceed after hearing the evidence to determine whether or not any trespass prohibited by the provisions of this chapter has been committed, and to ascertain the damages, if any, occasioned thereby, and the fees due to the taker up of the stock by reason of said trespass, and shall make an assessment of damages and fees, in writing, and signed by said freeholders, or two of them, and verified by the affidavit of said freeholders, to the effect that said assessment is just and that they have no bias in favor of or prejudice against any party interested therein, and shall file said assessment with the justice of the peace, which shall be final: Provided, that the owner of the stock, if known, shall have five days notice of the time and place of the meeting of said freeholders, and if the owner is unknown then a written notice thereof shall be posted in two public places in said subdivision and one at the door of the court house of the county: And provided further, that nothing in this chapter shall be construed to deprive the taker up of the stock to enforce by suit in a court of competent jurisdiction any claim he may have for such fees and damages, and to subject the stock so taken for the payment of the same under the provisions of this chapter.

Article 4607. After the filing of the assessment, as provided for in the preceding article, the constable of the precinct shall sell such stock at public auction for cash, after having given notice of such sale as in constables' sales of personal property, and apply the proceeds of such sale, after deducting the expenses thereof, to the satisfaction of said fees and damages, and shall pay the balance, if any remains, to the owner of such stock. The justices and constables shall receive for their services the same compensation as is allowed for like services in civil cases.

Article 4608. If no owner can be found of stock so impounded, the taker up may make affidavit before a justice of the peace of the county,

describing the stock impounded by him, and that the owner is unknown to affiant, which affidavit shall be forthwith delivered to the county clerk by such justice, to be kept in his office for inspection. After the filing of such assessment, the constable of the precinct shall sell such stock as in case where the owner is known, and if anything remains after satisfying the expenses of said sale and the fees and damages due to the taker up, he shall report the same under oath to the clerk of the county court, and pay the same over to the county treasurer, to be received and disbursed by him as in case of sales of estrays, or the taker up may at his option, after the expiration of five days, stray such stock, according to the laws regulating estrays in this State.

Sec. 2. Whereas, the Supreme Court of the State of Texas having declared certain sections of the stock law unconstitutional, the effect of which is to leave the State without a sufficient stock law, and the near approach of the close of the session creates an imperative public necessity and emergency which authorizes the suspension of the constitutional rule requiring bills to be read on three several days, and the same is hereby suspended, and this law be and hereby declared to be in effect from and after its passage.

Approved April 20, 1895.

RAILROADS—ANNUAL REPORTS.

CHAP. 60.—[S. B. No. 41.] An act to repeal article 4249, chapter 10, title 84, of the Revised Civil Statutes of Texas, adopted by the regular session of the Sixteenth Legislature, A. D. 1879, requiring railroad corporations to file an annual report with the Comptroller of Public Accounts.

Section 1. Be it enacted by the Legislature of the State of Texas: That article 4249 of the Revised Statutes of Texas, adopted by the regular session of the Sixteenth Legislature, be and the same is hereby repealed.

Approved April 24, 1895.

BOARD OF ARBITRATION.

CHAP 61.—[S. B. No. 142.] An act to provide for the amicable adjustment of grievances and disputes that may arise between employers or receiver and employes, and to authorize the creation of a board of arbitration; to provide for compensation of said board, and to provide penalties for the violation hereof.

Section 1. Be it enacted by the Legislature of the State of Texas: That whenever any grievance or dispute of any nature, growing out of the relation of employer and employes, shall arise or exist between employer and employes, it shall be lawful, upon mutual consent of all parties, to submit all matters respecting such grievance or dispute in writing to a board of arbitrators to hear, adjudicate, and determine the same. Said board shall consist of five (5) persons. When the employes concerned in

such grievance or dispute as the aforesaid are members in good standing of any labor organization which is represented by one or more delegates in a central body, the said central body shall have power to designate two (2) of said arbitrators, and the employer shall have the power to designate two (2) others of said arbitrators, and the said four arbitrators shall designate a fifth person as arbitrator, who shall be chairman of the board. In case the employees concerned in any such grievance or dispute as aforesaid are members in good standing of a labor organization which is not represented in a central body, then the organization of which they are members shall designate two members of said board, and said board shall be organized as hereinbefore provided; and in case the employees concerned in any such grievance or dispute as aforesaid are not members of any labor organization, then a majority of said employees, at a meeting duly held for that purpose, shall designate two arbitrators for said board, and said board shall be organized as hereinbefore provided: Provided, that when the two arbitrators selected by the respective parties to the controversy, the district judge of the district having jurisdiction of the subject matter shall, upon notice from either of said arbitrators that they have failed to agree upon the fifth arbitrator, appoint said fifth arbitrator.

Sec. 2. That any board as aforesaid selected may present a petition in writing to the district judge of the county where such grievance or dispute to be arbitrated may arise, signed by a majority of said board, setting forth in brief terms the facts showing their due and regular appointment, and the nature of the grievance or dispute between the parties to said arbitration, and praying the license or order of such judge establishing and approving of said board of arbitration. Upon the presentation of said petition it shall be the duty of said judge, if it appear that all requirements of this act have been complied with, to make an order establishing such board of arbitration and referring the matters in dispute to it for hearing, adjudication and determination. The said petition and order, or a copy thereof, shall be filed in the office of the district clerk of the county in which the arbitration is sought.

Sec. 3. That when a controversy involves and affects the interests of two or more classes or grades of employees belonging to different labor organizations, or of individuals who are not members of a labor organization, then the two arbitrators selected by the employees shall be agreed upon and selected by the concurrent action of all such labor organizations, and a majority of such individuals who are not members of a labor organization.

Sec. 4. The submission shall be in writing, shall be signed by the employer or receiver and the labor organization representing the employees, or any laborer or laborers to be affected by such arbitration who may not belong to any labor organization, shall state the question to be decided, and shall contain appropriate provisions by which the respective parties shall stipulate as follows:

1. That pending the arbitration the existing status prior to any disagreement or strike shall not be changed.

2. That the award shall be filed in the office of the clerk of the district court of the county in which said board of arbitration is held, and shall be final and conclusive upon both parties, unless set aside for error of law, apparent on the record.

3. That the respective parties to the award will each faithfully execute

the same, and that the same may be specifically enforced in equity so far as the powers of a court of equity permit.

4. That the employees dissatisfied with the award shall not by reason of such dissatisfaction quit the service of said employer or receiver before the expiration of thirty days, nor without giving said employer or receiver thirty days written notice of their intention so to quit.

5. That said award shall continue in force as between the parties thereto for the period of one year after the same shall go into practical operation, and no new arbitration upon the same subject between the same parties shall be had until the expiration of said one year.

Sec. 5. That the arbitrators so selected shall sign a consent to act as such and shall take and subscribe an oath before some officer authorized to administer the same to faithfully and impartially discharge his duties as such arbitrator, which consent and oath shall be immediately filed in the office of the clerk of the district court wherein such arbitrators are to act. When said board is ready for the transaction of business it shall select one of its members to act as secretary and the parties to the dispute shall receive notice of a time and place of hearing, which shall be not more than ten days after such agreement to arbitrate has been filed.

Sec. 6. The chairman shall have power to administer oaths and to issue subpoenas for the production of books and papers and for the attendance of witnesses to the same extent that such power is possessed by the court of record or the judge thereof in this State. The board may make and enforce the rules for its government and transaction of the business before it and fix its sessions and adjournment, and shall herein examine such witnesses as may be brought before the board, and such other proof as may be given relative to the matter in dispute.

Sec. 7. That when said board shall have rendered its adjudication and determination its powers shall cease, unless there may be at the time in existence other similar grievances or disputes between the same class of persons mentioned in section 1, and in such case such persons may submit their differences to said board, which shall have power to act and adjudicate and determine the same as fully as if said board was originally created for the settlement of such difference or differences.

Sec. 8. That during the pendency of arbitration under this act it shall not be lawful for the employer or receiver party to such arbitration, nor his agent, to discharge the employees parties thereto, except for inefficiency, violation of law, or neglect of duty, or where reduction of force is necessary, nor for the organization representing such employees to order, nor for the employees to unite in, aid or abet strikes or boycotts against such employer or receiver.

Sec. 9. That each of the said board of arbitrators shall receive three dollars per day for every day in actual service, not to exceed ten (10) days, and travelling expenses not to exceed five cents per mile actually traveled in getting to or returning from the place where the board is in session. That the fees of witnesses of aforesaid board shall be fifty cents for each day's attendance and five cents per mile traveled by the nearest route to and returning from the place where attendance is required by the board. All subpoenas shall be signed by the secretary of the board and may be served by any person of full age authorized by the board to serve the same. That the fees and mileage of witnesses and the per diem and traveling expenses of said arbitrators shall be taxed as costs against either or all

of the parties to said arbitration, as the board of arbitrators may deem just, and shall constitute part of their award, and each of the parties to said arbitration shall, before the arbitration [arbitrators] proceed to consider the matters submitted to them, give a bond, with two or more good and sufficient sureties in an amount to be fixed by the board of arbitration, conditioned for the payment of all the expenses connected with the said arbitration.

Sec. 10. That the award shall be made in triplicate. One copy shall be filed in the district clerk's office, one copy shall be given to the employer or receiver, and one copy to the employees or their duly authorized representative. That the award being filed in the clerk's office of the district court as hereinbefore provided, shall go into practical operation and judgment shall be entered thereon accordingly at the expiration of ten days from such filing, unless within such ten days either party shall file exceptions thereto for matter of law apparent on the record, in which case said award shall go into practical operation and judgment rendered accordingly when such exceptions shall have been fully disposed of by either said district court or on appeal therefrom.

Sec. 11. At the expiration of ten days from the decision of the district court upon exceptions taken to said award as aforesaid, judgment shall be entered in accordance with said decision, unless during the said ten days either party shall appeal therefrom to the Court of Civil Appeals holding jurisdiction thereof. In such case only such portion of the record shall be transmitted to the appellate court as is necessary to the proper understanding and consideration of the questions of law presented by said exceptions and to be decided. The determination of said Court of Civil Appeals upon said questions shall be final, and being certified by the clerk of said Court of Civil Appeals, judgment pursuant thereto shall thereupon be entered by said district court. If exceptions to an award are finally sustained, judgment shall be entered setting aside the award; but in such case the parties may agree upon a judgment to be entered disposing of the subject matter of the controversy, which judgment, when entered, shall have the same force and effect as judgment entered upon an award.

Sec. 12. The near approach of the end of the session, and the great number of bills requiring the attention of the Legislature, creates an imperative public necessity and an emergency that the constitutional rule requiring bills to be read in each house on three several days be suspended, and it is so suspended.

Approved April 24, 1895.

ROBBERY—OFFENSE OF.

CHAP. 62.—[S. B. No. 14.] An act to amend article 722, chapter 8, title 7 [17], of the Penal Code of the State of Texas, as amended by the Eighteenth Legislature, by an act entitled "An act to amend article 722, chapter 8, title 17, of the Penal Code of the State of Texas," approved April 12, 1883, defining the offense of robbery, and prescribing the penalty for robbery.

Section 1. Be it enacted by the Legislature of the State of Texas: That article 722, chapter 8, title 17, of the Penal Code of the State of Texas, as amended by the Eighteenth Legislature, by an act entitled "An act to amend article 722, chapter 8, title 17, of the Penal Code of the State of Texas," approved April 12, 1883, be and the same is hereby so amended as to hereafter read as follows:

Article 722. If any person by assault or violence or by putting in fear of life or bodily injury shall fraudulently take from the person or possession of another any property with intent to appropriate the same to his own use, he shall be punished by confinement in the penitentiary for life, or for a term of not less than five years; and when a firearm or other deadly weapon is used or exhibited in the commission of the offense, the punishment shall be death or by confinement in the penitentiary for any term not less than five years.

Sec. 2. The fact that there are a great many bills pending before the Legislature, and the crowded condition of the calendar, constitutes an emergency, and an imperative public necessity exists for the suspension of the constitutional rule requiring bills to be read on three several days, and said rule is hereby suspended.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 1th day of April, A. D. 1895, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

CITIES AND TOWNS—BOARDS OF ALDERMEN—POWERS OF.

CHAP. 63.—[H. B. No. 94.] An act to amend article 521, chapter 11 of title 17, of the Revised Civil Statutes of the State of Texas, relating to the power of the board of aldermen over streets, alleys, and other public places.

Section 1. Be it enacted by the Legislature of the State of Texas: That article 521, chapter 11 of title 17, of the Revised Civil Statutes of the State of Texas be and the same is hereby so amended as to hereafter read as follows:

Article 521. The board of aldermen shall have and exercise exclusive control over the streets, alleys and other public places within the corporate limits, and shall have the power to cause the male inhabitants between the ages of twenty-one and forty-five years, except ministers of the gospel actually engaged in the discharge of their duties, to work on the

streets and public alleys not to exceed five days in any one year, or furnish a substitute, or a sum of money (not to exceed one dollar for each day's work demanded) to employ such substitute. They shall, as far as practicable, prevent any nuisances within the limits of the corporation, and cause such as exists to be removed at the expense of the person by whom they were occasioned or upon whose property they may be found; they may establish markets, and may do whatever else may be necessary to give effect to the provisions of this chapter: Provided, that with the consent of the board of aldermen, where streets are continuations of public roads, the commissioners court shall have power to construct bridges and other improvements thereon which facilitate the practicability of travel on said streets.

Sec. 2. Whereas, there is now no law by which the male inhabitants between the ages of twenty-one and forty-five years residing in towns and villages incorporated under the provisions of this chapter can be compelled to work on the streets and alleys, therefore an emergency exists and an imperative public necessity demands that the constitutional rule which requires bills to be read on three several days in each house be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 12th day of April, A. D. 1895, but was not signed by him, nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

TOWNS AND VILLAGES—INCORPORATION— VALIDATION OF.

CHAP. 64.—[H. B. No. 598.] An act to validate incorporations of towns and villages heretofore attempted to be made under the provisions of chapter 11, title 17, of the Revised Civil Statutes, but which attempted incorporation failed to comply with the requirements of said chapter and title.

Section 1. Be it enacted by the Legislature of the State of Texas: That all towns and villages which have heretofore attempted to be incorporated under the provisions of chapter 11, title 17, of the Revised Civil Statutes, but which in said attempted incorporation failed to comply with all the requirements of said chapter 11, title 17, but which said towns or villages have from and after the date of their several attempted incorporations, as aforesaid, exercised the functions of towns and villages, and been recognized as such towns or villages, be and are hereby declared to be towns and villages of the class named, and their incorporations be and the same are hereby declared to be as legal and valid as if the original acts of incorporation had been in strict compliance with the requirements of the law: Provided, that nothing in this act shall be held to validate the incorporation of towns and villages that had less than two hundred inhabitants at the time of this attempted corporations of such towns and villages.

Sec. 2. Whereas, there are many towns and villages in Texas which have heretofore attempted to incorporate under the provisions of chapter 11, title 17, but failed to comply with all the requirements of said chapter, but have nevertheless been recognized as towns and villages; and whereas, the corporate existence of many of these towns and villages is threatened by legal proceedings whereby the public interest would be greatly injured, therefore an emergency and an imperative public necessity exists for the suspension of the constitutional rule requiring bills to be read on three several days, and the same is hereby suspended, and this act take effect from and after its passage, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 12th day of April, A. D. 1895, but was not signed by him, nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

CAMP COUNTY—RESTORING CIVIL AND CRIMINAL JURISDICTION.

CHAP. 65.—[H. B. No. 579.] An act to restore and confer upon the county court of Camp county the civil and criminal jurisdiction heretofore belonging to said court under the Constitution and general laws of the State, and to conform the jurisdiction of the district court of said county to such change, and to repeal all laws in conflict with this act.

Section 1. Be it enacted by the Legislature of the State of Texas: That the county court of Camp County shall hereafter have exclusive original jurisdiction in civil cases when the matter in controversy shall exceed in value two hundred dollars and shall not exceed five hundred dollars, exclusive of interest, and shall have concurrent jurisdiction with the district court of said county when the matter in controversy shall exceed five hundred dollars and not exceed one thousand dollars, exclusive of interest, but shall not have jurisdiction of suits for the recovery of land.

Sec. 2. Said county court shall have appellate jurisdiction in civil cases over which justices' courts have original jurisdiction when the judgment of the court appealed from or the amount in controversy shall exceed twenty dollars, exclusive of costs, and said county court shall have power to hear and determine cases brought up from the justice's court by certiorari under the provisions of the title of the Revised Statutes relating thereto.

Sec. 3. The county judge in said county shall have authority either in term time or in vacation to grant writs of mandamus, injunction, sequestration, garnishment, attachment, certiorari, supersedeas and all other writs necessary to the enforcement of the jurisdiction of said court, and shall have power to issue writs of habeas corpus in all cases in which the Constitution has not exclusively conferred the power on the district court or judge thereof.

Sec. 4. Said county court shall have jurisdiction in the forfeiture and judgment of all bonds and recognizances taken in criminal cases of

which criminal cases said court shall have original or appellate jurisdiction.

Sec. 5. Said county court shall have exclusive original jurisdiction of all misdemeanors of which exclusive original jurisdiction is not given to the justices courts as the same is now or may hereafter be prescribed by law, except misdemeanors involving official misconduct, and except cases in which the highest penalty of fine that may be imposed under the law may not exceed two hundred dollars, and appellate jurisdiction in criminal cases of which justices of the peace and other inferior tribunals of said county have original jurisdiction.

Sec. 6. The district court of said county of Camp shall no longer have jurisdiction of misdemeanors, except misdemeanors involving official misconduct, and shall no longer have jurisdiction of cases of which the county court of said county, by the provisions of this act, have original or appellate jurisdiction; and it shall be the duty of the district clerk of said county, within thirty days after this act shall take effect, to make full and complete transcripts of all the orders on the criminal and civil dockets in cases then pending before the district court of said county of which cases, by the provisions of this act, original or appellate jurisdiction is given to the said county court, and to deliver said transcripts, together with the original papers and a certified copy of the bill of costs in each case, to the county clerk of said county, and said county clerk shall take charge of said transcripts and papers, file the same, and enter said cases on their respective dockets for trial by said court.

Sec. 7. The said county court shall also have the power to hear and determine all motions against sheriffs and other officers of the court for failure to pay over moneys collected under the process of said court, or other defalcations of duty in connection with such process, and shall have power to punish by fine not exceeding one hundred dollars and by imprisonment not exceeding three days any person guilty of contempt of said court, and all other powers and jurisdictions conferred on county courts by the Constitution and general laws of this State.

Sec. 8. All laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

Sec. 9. The near approach of the close of the session, and the importance of transferring without delay the jurisdiction to the county court, creates an emergency and imperative necessity that the law requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved April 26, 1895.

JUDICIAL DISTRICT—SIXTH.

CHAP. 66.—[S. B. No. 298.] An act to amend the act creating the Sixth Judicial District, and fixing the times for holding the terms of court therein, and to repeal all laws in conflict with this act.

Section 1. Be it enacted by the Legislature of the State of Texas: That the Sixth Judicial District shall be composed of the counties of Fannin, Lamar and Red River, and the district court shall be begun and held in said counties as follows:

In the county of Fannin on the second Mondays of February and August, and may continue in session seven weeks.

In the county of Lamar on the seventh Monday after the second Monday in February and August, and may continue in session eight weeks.

In the county of Red River on the fifteenth Monday after the second Monday in February and August, and may continue in session five weeks.

Sec. 2. That all writs and processes returnable to the said courts shall be returnable to the terms of the said courts as herein fixed, and all such writs and process as have been issued, executed and returned shall be valid as if no change had been made in the time of holding said courts by the passage of this act.

Sec. 3. That all laws and parts of laws in conflict with this act be and the same are hereby repealed, and this act shall take effect on and after the first day of July, 1895.

Sec. 4. The great number of bills now upon the calendar causes an emergency to exist and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be and the same is hereby suspended.

Approved April 27, 1895.

JUDICIAL DISTRICT—THIRTY-NINTH.

CHAP. 67.—[H. B. No. 696.] An act to be entitled an act to change and fix the times for holding courts in the Thirty-ninth Judicial District of the State of Texas, and to repeal all laws or parts of laws in conflict herewith.

Section 1. Be it enacted by the Legislature of the State of Texas: That the Thirty-ninth Judicial District of the State of Texas shall be composed of the following counties, to-wit: Jones, Fisher, Scurry, Kent, Stonewall, Haskell and Throckmorton, and the terms of the district court therein shall be held each year as follows:

In the county of Jones on the first Mondays in February and August, and may continue in session for five weeks.

In the county of Fisher on the fifth Mondays after the first Mondays in February and August, and may continue in session two weeks.

In the county of Scurry on the seventh Mondays after the first Mondays in February and August, and may continue in session two weeks.

In the county of Kent on the ninth Mondays after the first Mondays in February and August, and may continue in session two weeks.

In the county of Stonewall on the eleventh Mondays after the first Mondays in February and August, and may continue in session three weeks.

In the county of Throckmorton on the fourteenth Mondays after the first Mondays in February and August, and may continue in session two weeks.

In the county of Haskell on the sixteenth Mondays after the first Mondays in February and August, and may continue in session four weeks.

Sec. 2. That all process issued or served before this act goes into effect returnable to the district courts in said judicial district shall be considered

returnable to said courts in accordance with the terms as prescribed by this act, and all such process is hereby legalized; and all grand and petit juries drawn and selected under existing laws in any of the counties of said judicial district shall be considered lawfully drawn and selected for the next term of the district court of their respective counties held after this act takes effect, and all such process is hereby legalized and validated.

Sec. 3. That all laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

Sec. 4. Whereas, the organization of Kent county since the former meeting of this Legislature, and the irregular time at which its term of court is being held, and near approach of the close of the present session of this Legislature makes it impossible to read this bill on three several days in each house, creates an imperative public necessity and an emergency exists requiring the suspension of the constitutional rule requiring bills to be read on three several days in each house, therefore said constitutional rule is suspended; and this act shall take effect and be in force from and after the 20th day of May, A. D. 1895, and it is so enacted.

Approved April 27, 1895.

HOUSE OF CORRECTION AND REFORMATORY.

CHAP. 68.—[S. B. No. 24.] An act to amend section 12 of an act entitled "An act to provide for the more efficient government and maintenance of the House of Correction and Reformatory at Gatesville," approved April 2, 1889.

Section 1. Be it enacted by the Legislature of the State of Texas: That section 12 of an act entitled "An act to provide for the more efficient government and maintenance of the House of Correction and Reformatory at Gatesville," approved April 2, 1889, be amended so as to hereafter read as follows:

Section 12. When upon the trial and conviction of any person in this State of a felony it is found by the verdict of the jury the defendant is not more than sixteen years of age, and the verdict of conviction is for confinement for five years or less, the judgment and sentence of the court shall be that the defendant be confined in the House of Correction and Reformatory instead of the Penitentiary for the term of his sentence, and that such defendant be conveyed to the House of Correction and Reformatory by the proper authority and there confined for the period of his sentence, and for such service such officer shall be paid the same fees that he would be allowed for conveying such convicts to the penitentiary: Provided, that the age of the defendant shall not be admitted by the attorney representing the State, and it shall be proved by full and sufficient evidence that the defendant is not more than sixteen years of age before the judgment herein provided for shall be entered: Provided, the jury convicting shall say in their verdict whether the convict shall be sent to the penitentiary or the reformatory.

Approved April 27, 1895.

CITATIONS—WITNESSES DISOBEYING SUBPOENAS.

CHAP. 69.—[S. B. No. 89.] An act to amend articles 483, 484 and 485 of the Code of Criminal Procedure of the State of Texas, prescribing the manner in which citations shall be served upon witnesses disobeying subpoenas in criminal cases, the character of judgment that may be rendered in such cases, and providing for the collection of same.

Section 1. Be it enacted by the Legislature of the State of Texas: That articles 483, 484 and 485 of the Code of Criminal Procedure of the State of Texas be so amended as to hereafter read as follows:

Article 483. When a fine is entered against a witness for failure to appear and testify, the judgment shall be conditional, and a citation shall issue to him to show cause at the term of the court at which said fine is entered, or at the first term thereafter, at the discretion of the judge of said court, why the same should not be final: Provided, citation shall be served upon said witness in the manner and for the length of time prescribed for citations in civil cases.

Article 484. A witness cited to show cause as provided in the preceding article may do so under oath in writing or verbally at any time before judgment final is entered against him, but if he fails to show cause within the time limited for answering in civil actions, a judgment final by default shall be entered against him.

Article 485. It shall be within the discretion of the court to judge of the sufficiency of an excuse rendered by a witness, and upon the hearing of the case the court shall render judgment against the witness for the whole or any part of the fine, or shall remit the fine altogether, as to the court may appear proper and right, and said fine shall be collected as fines in misdemeanor cases.

Sec. 2. The fact that the operation of the courts of this State is being delayed by the failure of witnesses to obey subpoenas, and the further fact that there is now no adequate means of enforcing the attendance of witnesses, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect from and after its passage, and it is so enacted.

Approved April 27, 1895.

TAXATION—ANNUAL AD VALOREM SCHOOL TAX.

CHAP. 70.—[H. B. No. 271.] An act to provide for the levy and collection of an annual ad valorem State school tax of twenty cents for the year 1895, and of eighteen cents for the years thereafter, on the one hundred dollars valuation, for the maintenance of the public free schools.

Section 1. Be it enacted by the Legislature of the State of Texas: That there shall be levied and collected an annual ad valorem State school tax of twenty cents for the year 1895, and of eighteen cents for the years thereafter, on the one hundred dollars of the cash value thereof, estimated in lawful currency of the United States, on all real property situated and on

all personal property owned in the State on the first day of January of each year, and all personal property sent out of the State for the purpose of avoiding the payment of taxes thereon and afterwards returned to the State, except so much thereof as may be exempted by the Constitution and laws of this State or the United States, which cash value shall be estimated in the manner prescribed by law.

Sec. 2. The near approach of the time for assessors to compile their assessment rolls creates an imperative public necessity and an emergency exists, wherefore the constitutional rule requiring bills to be read on three several days should be suspended, and that this bill be put on its third reading and final passage, and this act take effect and be in force from and after its passage, and it is so enacted.

Approved April 27, 1895.

LIENS.

CHAP. 71.—[S. B. No. 45.] An act to amend article 3183, chapter 4, title 61, of the Revised Civil Statutes, relating to liens.

Section 1. Be it enacted by the Legislature of the State of Texas: That article 3183, chapter 4, title 61, of the Revised Civil Statutes be amended so as hereafter to read as follows:

Article 3183. Proprietors of livery or public stables shall have a special lien on all animals placed with them for feed, care and attention, as also upon such carriages, buggies or other vehicles as may have been placed in their care, for the amount of the charges against the same, and this article shall apply to and include owners or lessees of pastures, who shall have a similar lien on all animals placed with them for pasturage.

Approved April 29, 1895.

TEXAS TRANSPORTATION COMPANY—SALE OF, ETC.

CHAP. 72.—[H. B. No. 682.] An act to authorize the sale of the railroad and other property and all the corporate franchises and privileges of the Texas Transportation Company to any railroad company owning or that may own a line or lines of railroad extending into the city of Houston, and owning tracks which connect or which may be hereafter connected with the tracks of said Texas Transportation Company, and conferring necessary power upon such companies.

Section 1. Be it enacted by the Legislature of the State of Texas: That the sale of the railroad and other property and all the corporate rights, franchises and privileges of the Texas Transportation Company, a corporation created and existing under the laws of the State of Texas, to any railroad company owning or that may own a line or lines of railroad extending into the city of Houston, and which own tracks that connect or that may hereafter connect with the tracks of said Texas Transportation Company, be and the same is hereby authorized and sanctioned, and

power and authority is hereby granted and conferred upon said Texas Transportation Company to sell and upon such other railroad companies to buy said railroad and other property and said corporate rights, franchises and privileges: Provided, however, that nothing herein shall be so construed as to authorize any such sale to or purchase by any parallel or competing line of railroad.

Sec. 2. That upon a completion of any such sale the said Texas Transportation Company shall become merged into the railroad company to which said sale is made and shall not thereafter be required to make to the Comptroller or the Railroad Commission of Texas, or to any other officer or department of the government, reports now required of railroad companies generally.

Sec. 3. That this act shall not become valid and binding, nor shall either of said corporations receive or enjoy any of the rights, powers and privileges hereby conferred, until such corporation shall file in the office of the Secretary of State a copy of a resolution voted for by the holders, in person or by proxy, of not less than seventy-five per cent of the capital stock of such corporation, which resolution shall be certified by the stockholder or officer presiding at the meeting at which the resolution is passed, and attested by the secretary under the seal of the corporation; such resolution, when so certified and filed, shall be deemed and taken as conclusive evidence of the acceptance of the terms, provisions, benefits and conditions of this act.

Sec. 4. That the near approach of the close of this session, and the large amount of business remaining to be disposed of before final adjournment, creates an imperative public necessity and emergency which authorizes the suspension of the rule requiring bills to be read on three several days, and such rule is hereby suspended.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 15th day of April, A. D. 1895, but was not signed by him nor returned to the House in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

LIFE AND ACCIDENT INSURANCE COMPANIES.

CHAP. 73.—[S. B. No. 15.] An act to provide for the creation of life and accident insurance companies in this State, and for the regulation thereof, and to repeal all laws and parts of laws in conflict therewith.

Section 1. Be it enacted by the Legislature of the State of Texas: A life insurance company shall be deemed to be a corporation doing business under any charter involving the payment of money or other thing of value to families or representatives of policy holders, conditioned upon the continuance or cessation of human life, or involving an insurance, guaranty, contract or pledge for the payment of endowments or annuities. An accident insurance company shall be deemed to be a corporation doing business under any charter involving the payment of

money or other thing of value to families or representatives of policy holders, conditioned upon the injury, disablement or death of persons resulting from traveling or general accidents by land or water. When consistent with the context and not obviously used in a different sense, the term "company" or "insurance company," as used herein, includes all corporations engaged as principals in the business of life, accident, or life and accident insurance. The term "home company," as used herein, designates those life, accident, or life and accident insurance companies incorporated and formed in this State. The term "home office" of a company means its principal office within the State or country in which it is incorporated or formed. The term "member" of a company shall include every person having a right to vote at any meeting of stockholders, other than a person having a right to vote only upon a proxy. The term "directors" or "board of directors" includes the persons duly appointed or designated to manage the affairs of the company. The "insured" or "policy holder" is the person on whose life a policy of insurance is effected. The "beneficiary" is the person to whom a policy of insurance effected is payable. By the term "net assets" is meant the funds of the company available for the payment of its obligations in this State, and also including uncollected and deferred premiums not more than three months due on policies actually in force, after deducting from such funds all unpaid losses and claims, and claims for losses, and all other debts, exclusive of capital stock. The "profits" of a company are that portion of its funds not required for the payment of losses and expenses, nor set apart for any other purpose allowed by law.

Sec. 2. Any three or more citizens of this State, who shall be known as corporators, may associate to form a home company under the provisions of this act for the purpose of transacting the business of a life insurance company, the business of an accident insurance company, or the business of both a life and accident insurance company: Provided, that such accident insurance business shall be made a separate department of the business of a life insurance company undertaking it.

Sec. 3. No home company shall adopt a name that so closely resembles the name of an existing corporation as to be likely to mislead the public, and the words "Insurance Company" must be a part of the title.

Sec. 4. The capital stock of a home company may be divided into classes or series, and each class or series shall be paid in at such times and in such amounts as the subscription contract or the stockholders may require: Provided, no company shall do or advertise to do business with a less capital stock paid in than one hundred thousand dollars. If default shall be made in the payment of any installment as required, all previous payments made thereon shall be forfeited for the use of the company after the expiration of sixty days from the date of the notice sent to such defaulting stockholder. Such forfeited stock may be reissued or subscription therefor may be received as in the case of stock not issued or subscribed for. Such capital stock shall be divided into shares, or fractional parts thereof, and the par value of each share shall be such an holder in exchange for new certificates it may issue in lieu thereof. The stockholders of any such company may increase or reduce the amount of its capital stock or the number of its shares to any amount: Provided, that the capital stock shall in no case be reduced to less than one hundred thousand dollars paid in. A statement of any such increase or reduction

shall be signed and acknowledged by two officers of the company, and filed and recorded in the same manner as the charter. Any such company may, after any such increase or reduction, require the return of the original subscription receipts or certificates of stock held by each stockholder in exchange for new certificates it may issue in lieu thereof. The shares or fractional parts of shares of capital stock of such company shall be transferable on the books of the company according to law and the by-laws of the company by the owner in person or his authorized attorney, and every person becoming a stockholder by such transfer shall, in proportion to his shares or parts of shares, succeed to all rights and liabilities of prior stockholders. No share, or part thereof, however, of capital stock shall be transferred until all previous calls made and due thereon shall have been paid in.

Sec. 5. Any home company may incorporate under this act for a period of time not exceeding five hundred years, and at the expiration of any term may renew its charter in accordance with then existing laws.

Sec. 6. Not less than three of the corporators of a home company shall sign and acknowledge before any officer authorized to take acknowledgments to deeds, and file in the office of the Insurance Commissioner, the charter adopted by them, which shall specify the names of the corporators and the proposed name of the company; the location of its home office; the kinds of insurance it proposes to transact; the period of time it is to exist; the amount of its capital stock, and the number and par value of the shares; and such other provisions not inconsistent with law that they may deem proper to insert therein.

Sec. 7. Whenever such corporators shall have filed the proposed charter with, and paid a charter fee of twenty dollars to, the Insurance Commissioner, it shall be his duty to submit such charter to the Attorney General of this State for examination, and if it shall be found by him to be in accordance with law, he shall so certify and deliver back to the Commissioner.

Sec. 8. The Commissioner shall, upon receipt of such charter, approved by the Attorney General, record the said charter and certificate of the Attorney General in a book kept for that purpose, and shall, upon receipt of fee for certified copy of charter, of one dollar, furnish a certified copy of such charter and certificate of Attorney General to the corporators, upon receipt of which they shall be a body politic and corporate, and may proceed to complete organization of the company. The corporators shall have the direction of the affairs and the perfecting the organization of the company until they shall call a special meeting of the stockholders, and until such meeting has been held for the purpose of adopting by-laws, electing directors, officers, and transacting general business.

Sec. 9. Upon being notified that at least one hundred thousand dollars of the capital stock named in the charter of the company has been paid in, the Commissioner shall make an examination, and if it shall be found that such amount of the paid in capital stock has been invested in securities authorized by this chapter, he shall so certify. The corporators, or two officers of such company, shall be required to certify under oath to the Commissioner that the money, notes, stocks, bonds, mortgages, deeds of trust or other property exhibited to him are bona fide property of the company, and are worth in cash the amounts which they represent.

Sec. 10. When the corporators have fully complied with the requirements of this act the Commissioner shall, upon the receipt of the certificate of authority fee of one dollar, furnish the company authority to commence business and issue policies as proposed in its charter.

Sec. 11. Any home company may, by vote of the stockholders, change or amend its charter, and such alteration or amendment shall be signed by two officers of the company, and filed and recorded in the same manner as the original charter.

Sec. 12. The paid in capital stock of a home company shall consist in lawful money or bonds of the United States, or in bonds of this State, or any county or incorporated town or city thereof, or the stock of any national bank, or in first mortgages upon unincumbered real estate in this State, the title to which is valid, and the market value of which is double the amount loaned thereon, exclusive of buildings, unless such buildings are insured in some responsible company and the policy or policies transferred to the company taking such mortgage. The accumulations or surplus money of the company over and above its paid in capital stock may be invested in or loaned upon the pledges of public stocks or bonds of the United States, or any county or school district, or incorporated city or town, or of any of the States, or stocks or bonds or other evidences of indebtedness of any solvent dividend paying corporation, except its own stock, or in bills of exchange, or other commercial notes or bills, or in the reserve values of its own policies, or in first mortgages upon unincumbered real estate situated in this State, the title to which is valid: Provided, that the current market value of such stocks, bonds, mortgages, notes, bills or other evidences of indebtedness shall be at all times during the continuance of such loans at least twenty per cent more than the sum loaned thereon. The company may sell, change, or reinvest its capital stock or accumulations in like securities as occasion may from time to time require.

Sec. 13. No home company shall purchase or hold real estate except for the following purposes and in the following manner: The building in which it has its home office and the land upon which it stands; such as shall be requisite for its accommodation in the transaction of its business in this State, or any other State or country; such as shall have been acquired for the accommodation of its business; such as shall have been mortgaged to it in good faith by way of security for loans previously contracted or for moneys due; such as shall have been conveyed to it in satisfaction of debts previously contracted in the course of its dealings; such as shall have been purchased at sales upon judgments, decrees, or mortgages obtained or made for such debts.

Sec. 14. The first meeting of stockholders of the home company shall be held before the company is authorized to commence business. Annual meetings shall be held at such time and place as the stockholders may determine. At any meeting of stockholders each stockholder shall be entitled to one vote for each share of the subscribed capital stock of such company standing in his name on the books of the company, which vote may be given in person or by proxy. A majority of the subscribed capital stock of such company represented at any meeting of stockholders shall constitute a quorum. The stockholders shall have authority to provide for the government of the affairs of such company by any number of directors, committees, officers, or other agencies, and may exercise or

confer such powers and may perform or prescribe such duties in such manner as they deem proper, not inconsistent with law or the charter of such company.

Sec. 15. Any stockholder, director, member of a committee, officer or clerk of a home company who is charged with the duty of handling or investing its funds shall not deposit or invest such funds except in the corporate name of such company; shall not borrow the funds of such company; shall not be interested in any way in any loan, pledge, security or property of such company, except as stockholder; shall not take or receive to his own use any fee, brokerage, commission, gift or other consideration for or on account of a loan made by or on behalf of such company.

Sec. 16. Any home company may reinsure in other companies authorized to do business in this State any risk or part of a risk which it may take for its own benefit.

Sec. 17. No home company shall make dividends to its policy holders or stockholders, except from the profits arising from the business of such company.

Sec. 18. Each home company shall annually, after the first day of January of each year, and before the renewal of its authority to transact business, prepare, under oath of two of its officers, and deposit in the office of the Insurance Commissioner a statement, accompanied with the fee for filing annual statement of ten dollars, showing the condition of the company on the thirty-first day of December then next preceding, which shall include a statement in detail showing class and character of its assets and liabilities on that day, the amount and character of business transacted, moneys received, and how expended during the year, and the number and amount of its policies in force on that day in Texas, and the total amounts of all policies in force: Provided, that the Commissioner of Insurance may from time to time make such changes in the forms and requirements of the annual statement of companies as shall seem to him best adapted to elicit from the companies a true exhibit of their condition, and such statement shall also contain and set forth an exhibit of the investments of such company.

Sec. 19. Whenever any home company shall have filed its annual statement in accordance with the preceding section, the Insurance Commissioner shall, upon receipt of certificate of authority fee of one dollar, issue a renewal certificate of authority to such company, which shall expire on the last day of December of the current year.

Sec. 20. Any home company having received authority to transact business in this State, may, upon payment of certified copy of certificate of authority fee of fifty cents each, procure from the Commissioner, upon written request, a certified copy of its certificate of authority for each of its agents in this State.

Sec. 21. The Insurance Commissioner shall, at the end of each five years, or oftener if he deems it necessary, in person or by one or more examiners, commissioned in writing, visit each home company and examine its financial condition, and its ability to meet its liabilities. He shall have a free access to all the books and papers of the company or agents thereof, and shall have power to summon and examine under oath the officers, agents and employees of such company, and any other person within the State of Texas. He may revoke or modify any certificate

of authority issued by him, when any conditions prescribed by law for granting it no longer exist. The expense of every such examination shall be paid by the company so examined, but the Commissioner shall not make any charge for his personal services, except for traveling or other actual expenses.

Sec. 22. Actions may be maintained by a home company against any of its policy holders, stockholders or other persons for any cause relating to the business of such company, and actions may also be prosecuted and maintained by any policy holder, or the heirs or legal representatives of such company against the company for losses which accrue on any risk, if payment is withheld for more than three months after the losses become due; but no action shall be brought or maintained by any person other than the Insurance Commissioner of this State for the enjoining, restraining or interfering with the prosecution of the business of the company.

Sec. 23. Nothing in this act shall be construed to affect or in any way apply to mutual benefit organizations doing business in this State through lodges, councils or chapters, such as the Order of the Chosen Friends, Knights of Honor, Progressive Endowment Guild, Knights of Maccabees, Knights of Pythias and kindred organizations, or to benevolent associations organized and chartered under title 20 of the Revised Statutes, or which are organized under the laws of any other State, which have no capital stock, and whose relief funds are created and sustained by assessments upon the members of said organization in accordance with their several by-laws and regulations: Provided, that the principal officer of every such benevolent association (not conducted by lodges, a quorum of whose members meet in their respective lodge rooms at least once a month) shall be required to make an annual statement under oath to the department of insurance on the first day of January of each year, or within sixty days thereafter, showing:

1. Name of organization and where located.
2. Name and residence of officers.
3. The salary paid each officer.
4. The gross amount of money received during the year, and from what sources.
5. The amount paid to policy holders on assessments to pay losses.
6. The amount paid out for all other purposes, stating in detail what purposes.
7. Surplus in the treasury, if any.
8. The amount of reserve fund, if any, and how invested.

And should any such benevolent organization refuse or neglect to make an annual report as above required, it shall be deemed an insurance company conducted for profit to its officers, and amenable to the laws governing such companies.

Sec. 24. The laws relating to and governing corporations in general shall apply to and govern home companies in so far as the same are pertinent and not in conflict with the provisions of this chapter.

Sec. 25. So much of chapters 1, 2 and 3, of title 53, as relate to home life and accident insurance companies, and so much of laws and parts of laws that are inconsistent with the provisions of this act, are hereby repealed: Provided, that nothing herein shall be construed to repeal article 2932 of title 53 of the Revised Civil Statutes of Texas: Provided, fur-

ther, that the net reserve value on the first three years' existence of any policy of insurance issued by a home company, as computed by said section 2932 of title 53, shall not be accounted a liability of the company.

Sec. 26. The great public necessity for this law creates an emergency authorizing the suspension of the constitutional rule requiring bills to be read on three several days in each house, said rule is therefore suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 15th day of April, A. D. 1895, but was not signed by him, nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

UNLISTED PROPERTY—SUPPLEMENTAL ROLL.

CHAP. 74.—[S. H. B. No. 302.] An act to provide for a supplemental assessment roll, and to collect taxes due by persons, or upon property not listed by the tax assessor.

Section 1. Be it enacted by the Legislature of the State of Texas: That collectors of taxes of counties, cities and towns, when any tax payer applies to them for the purpose of ascertaining the amount of his taxes, and the collector finds that his name or his property does not appear on the tax roll, shall, and it is hereby made their duty to, assess said tax payer then and there, collect the taxes and enter the same upon a supplemental tax roll to be made by him. He shall make out, on forms to be furnished by the Comptroller, three copies of such supplemental roll, one copy to be delivered to the Comptroller of Public Accounts, one to be delivered to the county clerk, and one to be filed in the collector's office. Said supplemental tax roll shall be made out and delivered to the county commissioners court with all other papers pertaining to the final settlement of said tax collector, and the same shall be examined and approved by the county commissioners court, in like manner as upon the tax roll of the tax assessor. The collectors of taxes are hereby authorized and empowered to administer all oaths necessary to obtain a full and correct assessment of all taxable property assessed by them under this act. The oath shall be the same as is administered by tax assessors under existing law. The collector of taxes shall receive the following compensation for his services on all assessments made by him under this act, to-wit: For assessing the state and county taxes, four cents for each one hundred dollars of property so assessed, and for assessing the poll tax, five cents for each poll, which fee shall be paid in the same way as the tax assessor's fee in article number 4724, Revised Statutes.

Sec. 2. There being no law authorizing assessments in the cases provided for herein, an emergency exists that the constitutional rule requiring bills to be read on three several days be suspended and that this act take effect and be in force from and after its passage, and said rule is hereby suspended and it is so enacted.

Approved April 29, 1895.

RAPE—PENALTY.

CHAP. 75.—[S. B. No. 56.] An act to amend article 503 of chapter 3, title 15, of the Penal Code of the State of Texas, relating to the offense of rape, and prescribing a penalty therefor.

Section 1. Be it enacted by the Legislature of the State of Texas: That article 503 of chapter 3, title 15, of the Penal Code of the State of Texas, be so amended as hereafter to read as follows:

Article 503. If any person shall assault a woman with the intent to commit the offense of rape, he shall be punished by confinement in the penitentiary for any term of years not less than two.

Approved April 29, 1895.

JUDICIAL DISTRICT—TWENTY-NINTH.

CHAP. 76.—[H. B. No. 677.] An act to amend "An act to designate what counties shall compose the Twenty-ninth Judicial District of the State of Texas, and to fix the times of holding courts therein," approved March 30, 1887, at the regular session of the Twentieth Legislature, amended February 15, 1889, March 5, 1889, amended by the acts of the regular session of the Twenty-third Legislature, approved April 26, 1893, so that the same shall hereafter read as follows:

Section 1. Be it enacted by the Legislature of the State of Texas: That the Twenty-ninth judicial district shall be composed of the counties of Palo Pinto, Hood, Somervell, Erath, Hamilton and Coryell, and the terms of the district courts shall be held therein each year as follows:

In the county of Coryell, on the third Monday in January and July, and may continue in session five weeks.

In the county of Palo Pinto, on the first Monday in March and September, and may continue in session three weeks.

In the county of Hood, on the fourth Mondays in March and September, and may continue in session three weeks.

In the county of Somervell, on the sixth Monday after the first Mondays in March and September, and may continue in session two weeks.

In the county of Erath, on the eighth Monday after the first Mondays in March and September, and may continue in session five weeks.

In the county of Hamilton, on the thirteenth Mondays after the first Mondays in March and September, and may continue in session four weeks.

Sec. 2. All writs, process and bonds, civil and criminal, which may be issued or executed up to the time this act takes effect, by or from the district courts of the several counties above named, or under order of said courts, and made returnable to the terms of said courts as they are now fixed by law, shall be returnable to the next ensuing term of said courts in each county as they are prescribed by this act; and all such writs, process and bonds above mentioned are hereby legalized and validated to all intents and purposes as if the same had been made returnable to the term of said courts as the terms thereof are herein prescribed.

Sec. 3. The fact that this session is near its close, and the great number of bills pending before both houses, creates an emergency requiring the suspension of the constitutional rule requiring bills to be read on three several days in each house, and said rule is hereby suspended, and this act shall take effect and be in force from and after its passage.

Approved April 29, 1895.

JUDICIAL DISTRICT—TWENTY-THIRD.

CHAP. 77.—[H. B. No. 600.] An act to amend an act approved March 15, 1893, entitled "An act to amend section 23 of chapter 63 of an act passed at the regular session of the Twenty-second Legislature, approved April 13, 1891, entitled an act to amend section 23 of an act entitled an act to redistrict the State into judicial districts and fix the terms of holding court therein, and to provide for the election of judges and district attorneys in said districts at the next general election to be held on the first Tuesday after the first Monday in November, 1884," and to change the time of holding the terms of the district court in Brazoria county, and confirm the issuance, service and return of process from said court to such change, and providing an extension of time of the January term of the district court in Brazoria county.

Section 1. Be it enacted by the Legislature of the State of Texas: That section 23 of the above entitled act be so amended as that it will hereafter read as follows, to-wit:

Section 23. The Twenty-third Judicial District of Texas shall be composed of the counties of Brazoria, Fort Bend, Jackson, Matagorda, Waller and Wharton, and the terms of the district court to be held therein shall be held as follows, viz:

In the county of Waller on the second Monday in February and the first Monday in August of each year, and may continue in session three weeks.

In the county of Fort Bend on the third Mondays after the first Mondays in March and September of each year, and may continue in session four weeks.

In the county of Wharton on the seventh Mondays after the first Mondays in March and September of each year and may continue in session three weeks.

In the county of Jackson on the tenth Mondays after the first Mondays in March and September of each year, and may continue in session two weeks.

In the county of Matagorda on the thirteenth Mondays after the first Mondays in March and September of each year, and may continue in session two weeks.

In the county of Brazoria on the first Mondays in January, and may continue in session five weeks, and on the fifteenth Monday after the first Monday in March, and may continue in session until the last Saturday in July.

Sec. 2. That all laws and parts of laws in conflict herewith be and the same are hereby repealed.

Sec. 3. The fact that the terms of the district court in and for Brazoria county are not of sufficient length as that the business of said court

can be transacted with efficiency and dispatch, and many cases are continued for want of time to try same, and the near approach of the end of the session of the Legislature, and the crowded condition of the calendar, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and the same is so suspended, and this act shall take effect and be in force from and after its passage, and it is so enacted.

Approved April 29, 1895.

FORGERY—PROSECUTION—COLLECTION OF FEES.

CHAP. 78.—[S. H. B. No. 19.] An act to amend chapter 1, title 14, of the Penal Code, so as to insert article 450a, providing for the prosecution in one bill of indictment of all such offenses as are based upon the same forged instrument of writing, and to prevent the double collection of fees in such cases.

Section 1. Be it enacted by the Legislature of the State of Texas: That chapter 1, title 14, of the Penal Code be so amended as to insert article 450a to read as follows, to-wit:

Article 450a. A conviction for any of the offenses mentioned in articles 431, 443 and 445 of this code shall be a bar to any other prosecution under said articles based upon the same transaction or same forged instrument of writing: Provided, that one or more of said several offenses may be charged by separate counts in the same bill of indictment, and prosecuted together to final judgment without election by the State as to which it relies upon for conviction: And provided further, a judgment of conviction shall specify which offense or under which count the defendant is found guilty, and shall assess but one penalty not exceeding the greatest punishment fixed by law to the highest grade of offense of which defendant is convicted; and it is hereby declared unlawful for any county or district attorney or any person acting as such to wilfully or knowingly demand or receive fees for more than one prosecution that could have been combined or prosecuted in one bill of indictment, and subject to the penalties prescribed by law for the punishment of extortion of illegal fees.

Sec. 2. Whereas, there is now no specific limitation upon multiplying into several prosecutions such offenses as might be combined into one, thereby permitting great expense to the State in the payment of double fees, therefore an emergency exists for the suspension of the constitutional rule requiring bills to be read on three several days, and that this act shall take effect from and after its passage, and it is so enacted.

Approved April 29, 1895.

LUNATIC ASYLUM AT AUSTIN--SALE OR LEASE OF WATER.

CHAP. 79.—[H. B. No. 704.] An act authorizing the board of managers of the State Lunatic Asylum at Austin, Texas, to sell, lease or dispose of the water flowing from the artesian wells on the grounds belonging to said asylum.

Section 1. Be it enacted by the Legislature of the State of Texas: That the members of the board of managers of the State Lunatic Asylum, situated at Austin, Texas, be and they are hereby authorized and empowered to sell, lease or dispose of the water belonging to the State and flowing from any of the artesian wells on the grounds of said asylum for such price and upon such terms and conditions as the said board may deem to the best interest of the State. Provided, that the term of said lease shall not exceed ten years.

Sec. 2. The near approach of the close of the session of this Legislature, and the importance of having the water now going to waste from the wells of this asylum utilized to the interest and advantage of the State, creates a necessity and emergency for the suspension of the constitutional rule requiring bills to be read on three several days, and that this act take effect from and after its passage, and it is so enacted.

Approved April 29, 1895.

JUDICIAL DISTRICT—FORTY-FIRST.

CHAP. 80.—[H. B. No. 457.] An act to reorganize the Forty-first Judicial District, and to provide the times of holding the terms of the district courts in said district.

Section 1. Be it enacted by the Legislature of the State of Texas: That the counties of Brewster, Buchel, Foley, Pecos, Val Verde, Kinney, Edwards, Jeff Davis and Maverick be and the same are hereby constituted the Forty-first Judicial District of the State of Texas.

Sec. 2. The district courts shall be held in the several counties composing the Forty-first Judicial District as follows:

Beginning in Jeff Davis county on the first Mondays in February and August, and continue in session two weeks.

In Brewster county on the second Mondays after the first Mondays in February and August, and continue two weeks.

In Pecos county on the fourth Mondays after the first Mondays in February and August, and continue one week.

In Val Verde county on the fifth Mondays after the first Mondays in February and August, and continue two weeks.

In Kinney county on the seventh Mondays after the first Mondays in February and August, and continue two weeks.

In Edwards county on the ninth Mondays after the first Mondays in February and August, and continue two weeks.

In Maverick county on the eleventh Mondays after the first Mondays in February and August, and continue until the business is all disposed of.

Sec. 3. All writs and process returnable to the district courts as here-

tofore fixed in the several counties affected by this act shall be as valid and binding as if no change had been made.

Sec. 4. All laws and parts of laws in conflict with this act be and the same are hereby repealed.

Sec. 5. The near approach of the close of the present session, and the crowded condition of the calendar, creates an emergency and imperative public necessity for the suspension of the constitutional rule requiring bills to be read on three several days, and said rule is hereby suspended.

Approved April 29, 1895.

LABELS, TRADE MARKS, ETC.

CHAP. 81.—[H. B. No. 47.] An act to protect persons, associations, private corporations and unions of working men, incorporated or unincorporated, in their labels, trade marks, designs, devices, imprints, and forms of advertising and names; and to prescribe penalties for violation of same, and to repeal all laws or parts of laws in conflict with this act.

Section 1. Be it enacted by the Legislature of the State of Texas: That whenever any person, association, private corporations or union of working men, incorporated or unincorporated, have adopted or shall hereafter adopt for their protection any label, trade mark, design, device, imprint or form of advertisement, indicating that goods to which such label, trade mark, design, device, imprint or form of advertisement shall be attached, were manufactured by such person, association, private corporations or union, or by a member or members of such association or union, it shall be unlawful for any person, inclusive of officers, agents, receiver or receivers of corporations, to counterfeit or imitate such label, trade mark, design, device, imprint or form of advertisement or to use such counterfeit or imitation of such label, trade mark, design, device, imprint, or form of advertisement, knowing the same to be counterfeit or imitation, or to aid, assist, countenance or knowingly permit such counterfeit or imitation or the use of such counterfeit or imitation for his own use or benefit, or for the use or benefit of any corporation of which he may then be an officer, agent or receiver. Every person, whether in his individual capacity or as an officer, agent or receiver of a corporation, violating this section shall, upon conviction, be punished by fine of not less than twenty-five nor more than one hundred dollars. Each day's violation of this section shall be considered a separate offense.

Sec. 2. Every person, whether in his individual capacity or as the officer, agent or receiver of a corporation, who shall wilfully and knowingly use or display the genuine label, trade mark, design, device, imprint, or form of advertisement, or name of any such person, association or union, incorporated or unincorporated, not being authorized to use or display the same, or shall aid, assist, countenance or knowingly permit the use of same, not being authorized to use the same, shall, upon conviction, be punished by fine of not less than twenty-five nor more than one hundred dollars.

Sec. 3. Every person, association or union of workingmen, incorporated or unincorporated, having adopted a label, trade mark, design,

device, imprint or form of advertisement, as aforesaid, may proceed by suit to enjoin the wrongful manufacture, use, display or sale of any such label, trade mark, design, device, imprint or form of advertisement, and the manufacture, use, display or sale of any such counterfeit or imitation, and all courts having jurisdiction thereof shall grant injunctions to restrain such manufacture, use, display or sale, and shall award the plaintiff in such suit such damages resulting from such wrongful manufacture, use, display or sale as by him may have been sustained. Where such association or union is not incorporated suits under this act may be commenced and prosecuted by any officer or member of such association or union in his own name, for himself and for the use and benefit of such association or union.

Sec. 4. Every person, association or union of workmen, incorporated or unincorporated, that has heretofore or shall hereafter adopt a label, trade mark, design, device, imprint or form of advertisement, shall file the same in the office of the Secretary of State by leaving two copies, counterparts or fac similes thereof, with the Secretary of State, and said secretary shall deliver back to such person, association or union so filing the same one of said copies, counterparts or fac similes, along with and attached to a duly attested certificate of the filing of same, for which he shall receive a fee of one dollar from such person, association or union. Such certificate of filing shall in all suits and prosecutions under this act be sufficient proof of the adoption of such label, trade mark, design, device, imprint or form of advertisement, and of the right of such person, association or union to adopt the same. No label, trade mark, design, device, imprint or form of advertisements shall be filed as aforesaid that would probably be mistaken for a label, trade mark, design, device, imprint or form of advertisement already of record: Provided, that no person or associations shall be permitted to register as a label, trade mark, design, device, imprint or form of advertisement, any emblem, design or resemblance thereto that has been adopted or used by any charitable, benevolent or religious society or association without their consent: And provided, further, that all persons, institutions or associations now using a label, trade mark, design, device, imprint or form of advertisement shall have thirty days time after this act takes effect in which to file such label, trade mark, design, device, imprint or form of advertisement under the provisions of this act, before the same can be registered by others.

Sec. 5. All laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

Sec. 6. It being important that the benefits of this act be realized at once, because the parties to be benefited by this act have no adequate protection under existing laws, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved April 29, 1895.

REVISED CIVIL STATUTES, PENAL CODE AND CODE OF
CRIMINAL PROCEDURE—PUBLICATION AND
DISTRIBUTION.

CHAP. 82.—[H. B. No. 728.] An act to provide for the publication and distribution of the Revised Civil Statutes, the Penal Code, and Code of Criminal Procedure of the State of Texas, adopted and established by the Twenty-fourth Legislature of the State of Texas, and to make an appropriation therefor.

Section 1. Be it enacted by the Legislature of the State of Texas: That the Revised Civil Statutes, the Penal Code and Code of Criminal Procedure of the State of Texas adopted and established by the present session of the Legislature shall, as soon as practicable, be printed and published under the supervision of the Board of Public Printing in the manner provided for in this act.

Sec. 2. That said Revised Statutes, Penal Code and Code of Criminal Procedure shall, with the Constitution of this State, and of the United States, be published in a volume to be entitled "The Revised Statutes of Texas, 1895;" and in the publication thereof the head and marginal indices and references, titles, chapters and articles contained and numbered in the acts by which the same were adopted and established shall be retained and published therein, together with a full and accurate index to each of said Constitutions and Codes and said Revised Statutes.

Sec. 3. Where any article in said Revised Statutes or Codes has been expressly repealed by the Twenty-third and Twenty-fourth Legislatures said articles shall be omitted in said volume, and in lieu thereof there shall be inserted a statement to the effect that said article has been repealed; also the date of the act by which the same was repealed, and the page of the session acts containing said repealing statute.

Sec. 4. Where any article in said Revised Statutes or Codes shall have been amended and re-enacted by either of said Legislatures, said articles shall be omitted, and the article as amended and re-enacted shall be inserted in lieu thereof, with marginal notes or references showing the date of the statute by which said article was amended, and the page of the session acts in which said statute appears.

Sec. 5. When any article, chapter or title of said Revised Statutes or Codes has been modified by an act of either of said Legislatures, but the same is not amended and re-enacted, then said article, chapter or title shall be retained in said volume, and the act modifying the same shall be inserted immediately after such article, chapter or title, together with like marginal notes or references, as hereinbefore provided.

Sec. 6. General acts of said Legislatures on the same subject with any of the articles, chapters or titles of said Revised Statutes and Codes shall be inserted immediately after such articles, chapters or titles, with marginal notes or references as provided above, and general laws of said Legislatures not on the same subject with any of said articles shall be inserted with reference to said articles, chapters and titles thereof as may be deemed most appropriate by the codifier to be appointed as hereinafter provided; but in no event shall the number of any article, chapter or title be changed by said codifier, but said number shall remain as in the act by which said Statutes and Codes were adopted and established.

Sec. 7. Full and accurate indices to said Constitutions, Codes and the

Revised Statutes, including the laws of the Twenty-third and Twenty-fourth Legislatures which may be inserted in said volume under the provisions of this act, shall be attached to each of said Constitutions, and the Codes, and to the Revised Statutes respectively.

Sec. 8. The Governor shall appoint a codifier, who shall prepare said volume for publication as directed in this act, and who shall read and revise the proof of the said Constitutions, Statutes and indices, and other matters included in said volume, and shall receive for his services the same compensation as was allowed the commissioners who revised the Codes and Statutes for the time he is actually engaged in the duties required of him, in no case to exceed six hundred dollars, the same to be paid upon the certificate of the Governor out of the amount appropriated for printing the Revised Statutes.

Sec. 9. The said Constitutions, Statutes and Codes aforesaid shall be printed on the best quality of book paper, in size of page and style corresponding with the Revised Statutes of 1879; the text of the volume to be in long primer type, the codifier's notes in brevier type; and the chapter indices, marginal and foot notes and general indices in nonpareil type. The type used shall be modern, plain book faces, and shall not exceed in thickness the following number of ems to the complete lower case alphabet for each kind named: Long primer, $13\frac{1}{2}$ ems; brevier, $14\frac{1}{2}$ ems; nonpareil, $15\frac{1}{2}$ ems. There shall be printed ten thousand copies of said volume, or so many thereof as said printing board may prescribe, containing the whole, as prescribed in this act. The binding shall be of the best style and workmanship and in law sheep of the best quality, and the title page of each volume shall recite and show that it is published by authority of the State of Texas, and each shall be authenticated by the certificate of the Secretary of State annexed thereto, as other laws when published are required to be certified; and said printing board shall require said edition to be electrotyped and shall secure and preserve the plates as the property of the State.

Sec. 10. The board of public printing shall immediately after passage of this act advertise for thirty days in three daily newspapers in this State for sealed proposals for printing, binding and electrotyping the laws as aforesaid, and shall on the day fixed in the advertisement, in the presence of such persons as desire to be present, proceed to open the proposals and award the contract to the best and lowest bidder, which proposal shall state the price per volume at which the bidder proposes to electrotype, print, bind and furnish under the superintendence and direction of the said board the laws and electrotype plates, as herein provided, and no bid or proposal shall be considered that is not accompanied by a guarantee of two or more sufficient sureties that if the contract should be awarded to the bidder he will execute the necessary bond for the performance of the work in the manner and style provided in this act; and the person or persons to whom such contract is awarded shall within ten days after receiving notice thereof, execute a bond to the State of Texas in the sum of twenty thousand dollars, with two or more sufficient sureties, to be approved by the board, conditioned for the faithful performance of the work in the manner and style therein prescribed and according to the provisions of this act, and for the delivery of said volumes and plates to the Secretary of State on or before the first day of September, 1895, or in the discretion of the board within such

time as they may determine, the work to be done within the shortest time practicable; and the volumes may be received, if necessary to an earlier distribution, in numbers of a thousand at a time, as the work progresses; and the right shall be reserved by the board to reject any and all bids and proposals if in their judgment the terms proposed are not favorable to the State.

Sec. 11. Upon the delivery by the contractor of the volumes and plates aforesaid to the Secretary of State, executed according to the terms of the contract and accepted by the board, the amount due therefor shall be audited, allowed, and paid as provided by law in cases of other public printing, and the statutes in force in relation to public printing shall be applicable to the contract under this act in all matters not herein otherwise provided, and the Secretary of State shall as soon as practicable proceed under the copyright laws of the United States to secure the copyright of said work in favor of the State of Texas.

Sec. 12. The Revised Statutes and Codes aforesaid shall be distributed in the same manner as the acts of each session of the Legislature are required to be distributed, and single copies may be sold by the Secretary of State to attorneys and other citizens of the State wanting the same for their own use at the cost of three dollars per volume, exclusive of postage, the proceeds of such sales to be paid to the State Treasurer, and the Secretary of State to report thereon in his biennial report: Provided, that the printing board may, in their discretion, have the Constitution of Texas, the Constitution of the United States, and the Revised Civil Statutes of Texas bound in one volume, to be numbered "Vol. 1," and the Penal Code and Code of Criminal Procedure in one volume, to be numbered "Vol. 2," said Vol. 1 to be sold at \$2.50 and Vol. 2 at \$1.50.

Sec. 13. Twenty-five thousand dollars, or so much of that sum as may be necessary, is hereby appropriated for the purpose of carrying into effect the provisions of this act.

Sec. 14. The necessity for the publication of the Revised Statutes of the State of Texas in as complete a form as possible, and their early distribution among the people, creates an imperative public necessity and emergency that the rule requiring bills to be read on three several days be suspended, and this act take effect and be in force from and after its passage, and it is so enacted.

Approved April 30, 1895.

TRUSTS.

CHAP. 83.—[H. B. No. 404.] An act to define trusts, provide for penalties and punishment of corporations, persons, firms and associations of persons connected with them, and to promote free competition in the State of Texas, and to repeal all laws and parts of laws in conflict with this act.

Section 1. Be it enacted by the Legislature of the State of Texas: That an act entitled "An act to define trusts and to provide for penalties and punishment of corporations, persons, firms and associations of persons connected with them, and to promote free competition in the State of Texas," approved March 30, 1889, be so amended as to hereafter read as follows:

Section 1. That a trust is a combination of capital, skill or acts by two or more persons, firms, corporations or associations of persons, or either two or more of them, for either, any or all of the following purposes:

1. To create or carry out restrictions in trade or commerce or aids to commerce, or to create or carry out restrictions in the full and free pursuit of any business authorized or permitted by the laws of this State.

2. To increase or reduce the price of merchandise, produce or commodities.

3. To prevent competition in manufacture, making, transportation, sale or purchase of merchandise, produce or commodities, or to prevent competition in aids to commerce.

4. To fix at any standard or figure, whereby its price to the public shall be in any manner controlled or established, any article or commodity of merchandise, produce or commerce intended for sale, use or consumption in this State.

5. To make or enter into or execute or carry out any contract, obligation or agreement of any kind or description by which they shall bind or have bound themselves not to sell, dispose of or transport any article or commodity, or article of trade, use, merchandise, commerce or consumption below a common standard figure, or by which they shall agree in any manner to keep the price of such article, commodity or transportation at a fixed or graded figure, or by which they shall in any manner establish or settle the price of any article or commodity or transportation between them or themselves and others to preclude a free and unrestricted competition among themselves or others in the sale or transportation of any such article or commodity, or by which they shall agree to pool, combine or unite any interest they may have in connection with the sale or transportation of any such article or commodity that its price might in any manner be affected.

Sec. 2. That any corporation holding a charter under the laws of the State of Texas which shall violate any of the provisions of this act shall thereby forfeit its charter and franchise, and its corporate existence shall cease and determine.

Sec. 3. For a violation of any of the provisions of this act by any corporation mentioned herein it shall be the duty of the Attorney General or district or county attorney, or either of them, upon his own motion and without leave or order of any court or judge, to institute suit or quo warranto proceedings in Travis county, at Austin, or at the county seat of any county in the State where such corporation exists, does business or may have a domicile, for the forfeiture of its charter rights and franchise and the dissolution of its corporate existence.

Sec. 4. Every foreign corporation violating any of the provisions of this act is hereby denied the right and prohibited from doing any business within this State, and it shall be the duty of the Attorney General to enforce this provision by injunction or other proper proceedings in the district court of Travis county, in the name of the State of Texas.

Sec. 5. That the provisions of chapter 48, general laws of this State, approved July 9, 1879, to prescribe the remedy and regulate the proceedings by quo warranto, etc., shall, except in so far as they may conflict herewith, govern and control the proceedings when instituted to forfeit any charter under this act.

Sec. 6. If any person shall be or may become engaged in any combination of capital, skill or acts by two or more persons, firms, corporations or associations of persons, or of either two or more of them, for either, any or all of the following purposes:

1. To create or carry out restrictions in trade or commerce or aids to commerce, or to create or carry out restrictions in the full and free pursuit of any business authorized or permitted by the laws of this State.

2. To increase or reduce the price of merchandise, produce or commodities.

3. To prevent competition in manufacture, making, transportation, sale or purchase of merchandise, produce or commodities, or to prevent competition in aids to commerce.

4. To fix at any standard or figure whereby its price to the public shall be in any manner controlled or established any article or commodity of merchandise, produce or commerce intended for sale, use or consumption in this State.

5. To make or enter into or execute or carry out any contract, obligation or agreement of any kind or description, by which they shall bind or have bound themselves not to sell, dispose of, or transport any article or commodity, or article of trade, use, merchandise, commerce or consumption, below a common standard figure, or by which they shall agree in any manner to keep the price of such article, commodity or transportation at a fixed or graduated figure, or by which they shall in any manner establish or settle the price of any article or commodity or transportation between them or themselves and others to preclude a free and unrestricted competition among themselves and others in the sale or transportation of any such article or commodity, or by which they shall agree to pool, combine or unite any interest they may have in connection with the sale or transportation of any such article or commodity that its prices may in any manner be affected, or aid or advise in the creation or carrying out of any such combination, or who shall as principal, manager, director, agent, servant or employee, or in any other capacity, knowingly carry out any of the stipulations, purposes, prices, rates, directions, conditions or orders of such combinations, shall be punished by fine of not less than fifty nor more than five thousand dollars, and by imprisonment in the penitentiary not less than one nor more than ten years, or by either such fine or imprisonment. Each day during a violation of this provision shall constitute a separate offense.

Sec. 7. In any indictment for an offense named in this act it is sufficient to state the effects or purposes of the trust or combination, and that the accused was a member of, acted with or in pursuance of it, without giving its name or description, or how, when or where it was created.

Sec. 8. In prosecutions under this act it shall be sufficient to prove that a trust or combination as defined herein exists and that the defendant belonged to it or acted for or in connection with it, without proving all the members belonging to it or proving or producing any article of agreement or any written instrument on which it may have been based, or that it was evidenced by any written instrument at all. The character of the trust or combination alleged may be established by proof of its general reputation as such.

Sec. 9. Persons out of the State may commit and be liable to indict-

ment and conviction for committing any of the offenses enumerated in this act, which do not in their commission necessarily require a personal presence in this State, the object being to reach and punish all persons offending against its provisions, whether within or without the State.

Sec. 10. Each and every firm, person, corporation or association of persons who shall in any manner violate any of the provisions of this act shall for each and every day that such violation shall be committed or continued forfeit and pay the sum of fifty dollars, which may be recovered in the name of the State of Texas in any county where the offense is committed, or where either of the offenders reside, or in Travis county, and it shall be the duty of the Attorney General or the district or county attorney to prosecute for and recover the same.

Sec. 11. That any contract or agreement in violation of the provisions of this act shall be absolutely void and not enforceable either in law or equity.

Sec. 12. That the provisions hereof shall be held cumulative of each other and of all other laws in any way affecting them now in force in this State: Provided, this act shall not be held to apply to livestock and agricultural products in the hands of the producer or raiser, nor shall it be understood or construed to prevent the organization of laborers for the purpose of maintaining any standard of wages.

Sec. 13. That nothing in this act shall be held or construed to affect or destroy any rights which may have accrued, or to affect the right of the State to recover penalties, or to affect the right of the State to forfeit charters of domestic corporations and prohibit foreign corporations from doing business in this State, or affect the right of the State to maintain prosecutions for violations thereof, under any laws of this State relating to trusts, for acts heretofore done.

Sec. 14. Any court, officer or tribunal having jurisdiction of the offense defined in this act, or any district or county attorney or grand jury may subpoena persons and compel their attendance as witnesses to testify as to the violation of any of the provisions of the foregoing sections. Any person so summoned and examined shall not be liable to prosecution for any violation of said sections about which he may testify fully and without reservation.

Sec. 15. All laws or parts of laws in conflict with this act are hereby repealed.

Sec. 16. Whereas, the people of this State are without an adequate remedy against trusts, therefore an emergency and imperative public necessity exists requiring that the constitutional rule which requires that all bills shall be read on three several days be suspended, and it is so enacted.

Approved April 30, 1895.

STOLEN OR EMBEZZLED PROPERTY.

CHAP. 84.—[S. B. No. 51.] An act to amend articles 798 and 799, of chapter 18, title 17, of the Penal Code of the State of Texas, relating to stolen or embezzled property brought into the State.

Section 1. Be it enacted by the Legislature of the State of Texas: That articles 798 and 799, of chapter 18, title 17, of the Penal Code of the State of Texas be so amended as hereafter to read as follows:

Article 798. If any person having committed an offense in any foreign country, State or territory, which if committed in this State would have been robbery, theft, embezzlement, or receiving of stolen goods or property, knowing the same to have been stolen, or fraudulently receiving or concealing property acquired by another by embezzlement, knowing the same to have been so acquired, shall bring into this State any property so acquired or received, he shall be deemed guilty of robbery, theft, embezzlement, or receiving of goods or property stolen or embezzled, as the case may be, knowing the same to have been stolen or embezzled, and shall be punished as if the offense had been committed in this State. And in cases herein mentioned the offense may be charged to have been committed in any county into or through which the property may be brought in the same manner as if the act constituting such offense had taken place wholly within this State.

Article 799. To render a person guilty under the preceding article it must appear that by the law of the foreign country, state or territory from which the property was taken and brought to this State the act committed would also have been robbery, embezzlement, theft or receiving stolen goods or property, or receiving or concealing goods or property embezzled.

Approved April 29, 1895.

AD VALOREM TAX.

CHAP. 85.—[H. B. No. 270.] An act to provide for the levy and collection of an annual ad valorem State tax for the general revenue purposes of twenty-five cents on the one hundred dollars valuation for 1895, and twenty cents thereafter.

Section 1. Be it enacted by the Legislature of the State of Texas: There shall be levied and collected for the year 1895 an ad valorem tax of twenty-five cents, and annually thereafter an ad valorem tax of twenty cents on the one hundred dollars of the cash value thereof, estimated in lawful currency of the United States, on all real property situated and on all property owned in the State on the first day of January in each and every year, and on all property sent out of the State prior to the first day of January for the purpose of evading the payment of taxes thereon, and afterwards returned to the State, except so much thereof as may be exempted by the Constitution and laws of this State or the United States, which cash value shall be estimated in the manner prescribed by law.

Sec. 2. The near approach of the time for assessors to compile their assessment rolls creates an imperative public necessity, and an emergency exists wherefore the constitutional rule requiring bills to be read on three several days should be suspended and that this bill be put on its third reading and final passage, and this act take effect and be in force from and after its passage, and it is so enacted.

Approved May 3, 1895.

APPROPRIATIONS FOR THE SUPPORT OF THE STATE GOVERNMENT, ETC.

CHAP. 86.—[S. H. Bs. Nos. 125 and 138.] *An act making appropriations for the support of the State Government for the years beginning March 1, 1895, to February 28, 1897, and for other purposes.*

Section 1. Be it enacted by the Legislature of the State of Texas: That the following sums of money, or so much thereof as may be necessary, are hereby appropriated out of any money in the Treasury not otherwise appropriated, for the support of the State government for the years beginning March 1st, 1895, and ending February 28, 1897, and for other purposes:

Executive Office.	Year ending—	
	Feb. 28, 1896.	Feb. 28, 1897.
Salary of Governor	\$4,000 00	\$4,000 00
Salary of private secretary	1,800 00	1,800 00
Salary of stenographic clerk, who shall also act as Secretary of Penitentiary Board ...	1,200 00	1,200 00
Salary of porter	420 00	420 00
Salary of State Revenue Agent	1,800 00	1,800 00
Necessary traveling and other expenses of State Revenue Agent	300 00	300 00
Payment of rewards and other expenses neces- sary in the enforcement of the law.....	7,500 00	7,500 00
Books and stationery	300 00	300 00
Freight, postage and telegraphing	500 00	500 00
Ice	36 00	36 00
Office furniture	100 00	50 00
Payment of balance of fee of special counsel in the Greer county case in the Supreme Court of the United States, and all neces- sary expenses incident to and connected with said suit, including traveling expenses of the Attorney General in said case, or so much thereof as may be necessary, to be paid out and expended under the direction of the Governor, to be expended within two years	5,000 00	
Salary of Board of Pardon Advisers.....	1,000 00	1,000 00

Mansion and Grounds.

	Year ending—	
	Feb. 28, 1896.	Feb. 28, 1897
For Governor's mansion and furniture, including repairs to mansion and improvement to grounds surrounding mansion, to be expended within two years	\$3,000 00	
Gardener and labor and keeping up grounds surrounding mansion	500 00	\$500 00
Water and ice	200 00	200 00
Housekeeper for mansion	300 00	300 00
Fuel and lights	450 00	450 00

Department of State.

Salary of Secretary of State	2,000 00	2,000 00
Salary of chief clerk	1,600 00	1,600 00
Salaries of two first assistant clerks, \$1200 each.	2,400 00	2,400 00
Salary of one second assistant clerk.....	900 00	900 00
Salary of one porter	360 00	360 00
Salary of extra clerk to copy laws.....	100 00	
Freight, postage and express	1,500 00	1,500 00
Books and stationery	400 00	400 00
Furniture and files	50 00	50 00
Contingent expenses	100 00	100 00

Treasury Department.

Salary of Treasurer	\$2,500 00	\$2,500 00
Salary of chief clerk	1,800 00	1,800 00
Salary of bookkeeper	1,500 00	1,500 00
Salary of assistant bookkeeper	1,080 00	1,080 00
Salary of receiving clerk	1,500 00	1,500 00
Salary of corresponding clerk	1,200 00	1,200 00
Salary of two bookkeepers in land department at \$1400 each	2,800 00	2,800 00
Salary of examining clerk	1,200 00	1,200 00
For salaries of three assistant bookkeepers in land department at \$1200 each	3,600 00	3,600 00
For salaries of two assistant bookkeepers in land department at one thousand dollars each	2,000 00	2,000 00
Salary of one clerk for March and April, 1895	200 00	
Salary of messenger and collector, who shall also act as porter	600 00	600 00
Books and stationery	400 00	400 00
Postage	750 00	750 00
Contingent expenses	100 00	100 00
Keeping in repair time locks, combinations and vaults, or so much thereof as may be needed for such purposes	150 00	150 00
Salary of night watchman	600 00	600 00

	Year ending—	
	Feb. 28, 1896.	Feb. 28, 1897.
Office furniture and files	\$150 00	\$150 00
To refund to purchasers or lessees of public domain, public school, university or asylum lands, the money paid by them into the State Treasury in accordance with any of the laws of this State, and where according to the certificate of the Commissioner of the General Land Office made under the provisions of said chapter CXI, as amended by act of the Twenty-fourth Legislature in H. B. No. 358, it is shown that title can not issue or possession pass, because of conflict, erroneous sales and other causes patents can not issue, to be paid out of the respective funds to which said payments were credited, said claims to be approved by the Attorney General and the Governor, to be expended within two years	25,000 00	
To refund to persons who have deposited in the General Land Office money to pay patent fees in cases where patent can not issue, to be paid by the Treasurer on certificate of the Commissioner of the General Land Office, showing the amount of such deposit, to be expended within two years	5,000 00	

Comptroller's Office.

Salary of Comptroller	2,500 00	2,500 00
Salary of chief clerk	1,800 00	1,800 00
Salary of bookkeeper	1,600 00	1,600 00
Salary of assistant bookkeeper	1,200 00	1,200 00
Salaries of two sheriffs' clerks, witnesses and attorneys' accounts at \$1500 each.....	3,000 00	3,000 00
Salary of clerk for registering city, county and other bonds	1,200 00	1,200 00
Salary of general clerk	1,000 00	1,000 00
Salary of receiving clerk	1,400 00	1,400 00
Salary of warrant clerk	1,400 00	1,400 00
Salary of assistant warrant clerk.....	1,200 00	1,200 00
Salaries of two corresponding clerks at \$1200 each	2,400 00	2,400 00
Salary of chief tax clerk	1,500 00	1,500 00
Salary of redemption clerk	1,400 00	1,400 00
Salary of examining clerk	1,400 00	1,400 00
Salary of auditing clerk	1,300 00	1,300 00
Salary of assistant auditing clerk	1,200 00	1,200 00
Salary of deposit warrant clerk	1,200 00	1,200 00
Salaries of six first assistant clerks at \$1200 each	7,200 00	7,200 00

	Year ending—	
	Feb. 28, 1896.	Feb. 28, 1897.
Salaries of eighteen second assistant clerks at \$900 each	\$16,200 00	\$16,200 00
Salary of porter	420 00	420 00
Salary of night watchman	600 00	600 00
Contingent, telegraphing, postage, express and assessment rolls (and no more than \$200 shall be used for contingent expenses), to be expended within two years	4,000 00	4,000 00
Books and stationery	1,800 00	1,800 00
Binding rolls	1,200 00	1,200 00
Iron shelving for assessment rolls	1,720 00	
To carry into effect the act passed by the Twenty-fourth Legislature, entitled "An act to provide for the sale and conveyance of land delinquent for taxes," or so much thereof as is necessary	5,000 00	

Adjutant General's Office.

Salary of Adjutant General	2,000 00	2,000 00
Salary of chief clerk	1,200 00	1,200 00
Salary of porter	360 00	360 00
Stationery, postage and telegraphing	400 00	400 00
Incidental expenses	25 00	25 00
Handling and transportation of ordnance and repair of arms	250 00	250 00
Inspection of arms and troops	250 00	250 00
Protection of the frontier and suppression of lawlessness and crime	25,000 00	25,000 00
Payment of Texas Volunteer Guard when called into actual service under the law...	5,000 00	5,000 00
Guard for encampment grounds	360 00	360 00

Department of Agriculture, Insurance, Statistics, and History.

Salary of Commissioner	2,000 00	2,000 00
Salary of chief clerk	1,800 00	1,800 00
Salary of assistant chief clerk or bookkeeper, stenographer, and statistical clerk	1,200 00	1,200 00
Salary of agricultural clerk	1,200 00	1,200 00
Salary of historical clerk	1,200 00	1,200 00
Salary of porter	360 00	360 00
Subscriptions to newspapers and magazines, and binding	100 00	100 00
Books for State library		200 00
Expense for collecting historical data for Texas	500 00	500 00
Contingent and telephone	100 00	150 00
Enforcing insurance laws	200 00	200 00
Postage, stationery, and express	1,000 00	1,000 00
Book cases, to be expended in two years....	200 00	

General Land Office.	Year ending—	
	Feb. 28, 1896.	Feb. 28, 1897.
Salary of Commissioner	\$2,500 00	\$2,500 00
Salary of chief clerk	1,800 00	1,800 00
Salary of Spanish clerk and draftsman	1,500 00	1,500 00
Salary of receiving clerk	1,500 00	1,500 00
Salary of first assistant, who has charge of all evidence furnished the courts, cancellation of all patents, etc., in accordance with decrees of courts, and compiles all certified statements	1,500 00	1,500 00
Salary of examining clerk	1,500 00	1,500 00
Salaries of three corresponding clerks at \$1200 each	3,600 00	3,600 00
Salary of chief patent clerk	1,200 00	1,200 00
Salary of assistant patent clerk	1,200 00	1,200 00
Salaries of two abstract clerks at \$1080 each	2,160 00	2,160 00
Salaries of two filing clerks at \$1200 each ...	2,400 00	2,400 00
Salary of file room clerk	1,080 00	1,080 00
Salary of general clerk	1,080 00	1,080 00
Salaries of two transcript clerks	2,160 00	2,160 00
Salary of chief draftsman	1,600 00	1,600 00
Salaries of six compiling draftsmen at \$1400 each	8,400 00	8,400 00
Salaries of three assistant draftsmen at \$1200 each	3,600 00	3,600 00
Salary of two letter registers at \$1080 each	2,160 00	2,160 00
Salary of index clerk	1,080 00	1,080 00
Salary of night watchman	600 00	600 00
Salary of porter and janitor	480 00	480 00
Stationery, books and fixtures	2,000 00	2,000 00
Postage, telegraphing and contingent expenses	1,500 00	1,500 00
Wood	200 00	200 00
Lithographing maps	750 00	750 00
Water, and repairs to fixtures	500 00	500 00
Repairs to building	250 00	250 00
Buckler's Digest	25 00	

School Land Department.

Salary of chief clerk	1,500 00	1,500 00
Salary of head lease clerk	1,200 00	1,200 00
Salaries of two assistant lease clerks	2,160 00	2,160 00
Salary of chief corresponding clerk	1,200 00	1,200 00
Salary of assistant corresponding clerk	1,200 00	1,200 00
Salaries of two sales clerks at \$1080 each ...	2,160 00	2,160 00
Salary of copying clerk	1,080 00	1,080 00
Salary of general clerk	1,080 00	1,080 00
Salary of draftsman	1,200 00	1,200 00
Salary of bookkeeper	1,400 00	1,400 00
Salary of file clerk	1,080 00	1,080 00

Year ending—
Feb. 28, 1896. Feb. 28, 1897.

For salaries of additional clerks at \$1200 per annum and draftsmen at \$1500 per annum, if found to be necessary, said sum to be used in any department, without reference to whether it be in the school land department or the Land Office proper	\$4,000 00	\$4,000 00
Provided, the Commissioner of the General Land Office is authorized to dismiss any clerk or draftsman in any particular department or service when not needed, and to use the salary of such dismissed clerks in other departments if the services shall require.		

Attorney General's Office.

Salary of Attorney General	2,000 00	2,000 00
And the further sum each year, or so much thereof as may be necessary, to pay such fees as may be prescribed by law	2,000 00	2,000 00
Salary of first office assistant	2,500 00	2,500 00
Salary of second office assistant	2,000 00	2,000 00
Salary of third office assistant	2,000 00	2,000 00
Salary of stenographic clerk	1,250 00	1,250 00
Salary of filing and recording clerk	1,000 00	1,000 00
Stationery, postage and telegraphing	500 00	500 00
Law books and periodicals	200 00	200 00
Cost of depositions and procuring evidence..	400 00	400 00
Porter and messenger hire	360 00	360 00
Actual traveling expenses incurred by Attorney General or any of his assistants in giving attention to the State's business pending elsewhere than in the courts held in the city of Austin, vouchers to be made under official certificates	600 00	600 00
Contingent expenses	100 00	100 00

Public Printing.

For first, second and third classes of public printing and binding, and for printing papers for first and second classes of public printing	2,100 00	2,100 00
Salary of State expert printer and secretary of State printing board, who shall also be ex officio instructor in the art of printing at the Deaf and Dumb Asylum	1,400 00	1,400 00
Publishing Supreme Court reports	1,750 00	2,430 00
Advertising for supplies at the asylums	300 00	300 00
Publishing Court of Criminal Appeals reports ..	2,430 00	2,430 00
Publishing Court of Civil Appeals reports ..	7,200 00	7,200 00

Year ending—
Feb. 28, 1896. Feb. 28, 1897.

Provided, that only such decisions of the above courts shall be published as shall be designated for publication by the court rendering the decision: And provided, further, that said reports shall be sold at a profit to the State of 25 per cent, not to be less in any case than \$2 per volume: Provided, that such published reports shall be furnished the several counties of the State at cost, exclusive of postage and expressage.

Supreme Court.

Salaries of three judges	\$12,000 00	\$12,000 00
Salaries of clerks	2,500 00	2,500 00
Salary of librarian at Austin	720 00	720 00
Salary of bailiff	200 00	200 00
Salary of stenographer or law clerk	1,000 00	1,000 00
Porter hire for judges and consultation rooms	360 00	360 00
Porter hire for court room, library and clerk's office	360 00	360 00
Record books and stationery	500 00	500 00
Purchase of books for consultation room and books for Supreme Court library	1,150 00	1,150 00
Postage	150 00	150 00
Contingent expenses	500 00	500 00

Judiciary Department.

Salaries of fifty-four district judges	135,000 00	135,000 00
Salaries of thirty-eight district attorneys ...	19,000 00	19,000 00
Salary of criminal district attorney	500 00	500 00
Salaries of two criminal district judges	5,000 00	5,000 00
Fees and costs of sheriffs, clerks, and attorneys in felony cases	375,000 00	375,000 00
Salaries of special judges	10,000 00	10,000 00
Fees of county judges, justices of the peace, sheriffs and constables in examining trials.	20,000 00	20,000 00
Expenses of attached witnesses: Provided, the Comptroller shall approve no claim of any person attached as a witness while under indictment for a felony in the same court in which he is attached to testify	100,000 00	100,000 00
Salary of Supreme Court reporter	3,000 00	3,000 00
Salary of Court of Criminal Appeals reporter	3,000 00	3,000 00
Compensation for assistant Supreme Court reporter or reporters for reporting for the Courts of Civil Appeals of the 1st, 2nd, 4th and 5th districts, at Galveston, Fort Worth,		

	Year ending—	
	Feb. 28, 1896.	Feb. 28, 1897.
San Antonio and Dallas, at \$750 per annum for each court, said reporter or reporters to be selected by the Supreme Court reporter, with the advice and consent of the Supreme Court	\$3,000 00	\$3,000 00
Clerks' and sheriffs' fees in all civil cases, when such costs are adjudged against the State, or when such costs can not be recovered from the defendant, in which only such costs as are incurred by the State in such civil cases shall be paid out of this fund, to be used in two years	10,000 00	
Relief of liquor dealers	10,000 00	10,000 00
For the payment of commissions and fees due district and county attorneys or attorneys ad litem on collection of interest and forfeitures of lands made since the adjournment of the Twenty-third Legislature, said money so collected and lands so forfeited being the property of the free school fund. The account of the district or county attorney approved and verified by the State Treasurer shall be sufficient authority for the Comptroller to draw his warrant for the payment of commissions, and the account of the district or county attorney or attorney ad litem approved by the district judge trying the case, or his successor in office, shall be sufficient authority for the Comptroller to issue his warrant for the payment of fees in cases of forfeiture of lands, to be expended within two years	2,500 00	

Court of Criminal Appeals.

Salaries of three judges	12,000 00	12,000 00
Salary of stenographer	1,000 00	1,000 00
Sheriffs' attendance on the court	200 00	200 00
Postage	300 00	300 00
Contingent expenses	300 00	300 00
Fuel and lights	200 00	200 00
Law books, to be selected by the presiding judge	250 00	250 00
Record books and stationery	500 00	500 00
Furniture	100 00	100 00
Salary, fees and traveling expenses of Assistant Attorney General	3,000 00	3,000 00
Porter hire	360 00	360 00
Telegraphing and contingent expenses for Assistant Attorney General	50 00	50 00
Clerks' fees in criminal cases, or so much thereof as may be necessary	3,000 00	3,000 00

Court of Civil Appeals—First District.

	Year ending—	
	Feb. 28, 1896.	Feb. 28, 1897
Salaries of judges	\$10,500 00	\$10,500 00
Salary of sheriff	200 00	200 00
Salary of porter	360 00	360 00
Stationery	300 00	300 00
Postage	150 00	150 00
Fuel and lights	100 00	100 00
Furniture	100 00	100 00
Law books	500 00	500 00
Contingent	100 00	100 00
Telephone and ice	100 00	100 00
Salary of stenographer for the months of March, April, May and June, 1895	400 00	

Court of Civil Appeals—Second District.

Salaries of three judges	10,500 00	10,500 00
Salary of stenographer for the months of March, April, May and June, 1895	400 00	
Salary of bailiff	200 00	200 00
Salary of porter	360 00	360 00
Postage	200 00	200 00
Record books and stationery	300 00	300 00
Books for library	500 00	500 00
Furniture	100 00	100 00
Contingent expenses, including fuel and lights	350 00	350 00

Court of Civil Appeals—Third District.

Salaries of three judges	10,500 00	10,500 00
Salary of stenographer for the months of March, April, May and June, 1895	400 00	
Salary of porter	360 00	360 00
Record books and stationery	300 00	300 00
Postage and box rent	200 00	200 00
Furniture and record files	100 00	100 00
Contingent expenses	100 00	100 00
Law books for consultation room	250 00	250 00

Court of Civil Appeals—Fourth District.

Salaries of three judges	10,500 00	10,500 00
Salary of stenographer for the months of March, April, May and June, 1895	400 00	
Salary of bailiff	200 00	200 00
Salary of porter	360 00	360 00
Postage	200 00	200 00
Record books and stationery	300 00	300 00
Books for library	500 00	500 00
Furniture	100 00	100 00
Contingent expenses, including fuel and lights,	300 00	300 00

Court of Civil Appeals—Fifth District.	Year ending—	
	Feb. 28, 1896.	Feb. 28, 1897.
Salaries of three judges	\$10,500 00	\$10,500 00
Salary of stenographer for the months of March, April, May and June, 1895	400 00	
Salary of bailiff	200 00	200 00
Salary of porter	360 00	360 00
Postage	200 00	200 00
Record books and stationery	300 00	300 00
Books for library and consultation	500 00	500 00
Contingent expenses	100 00	100 00
Fuel and lights	200 00	200 00
Furniture	100 00	100 00

Railroad Commission.

Salaries of three Commissioners	12,000 00	12,000 00
Salary of secretary	1,800 00	1,800 00
Salary of stenographer	1,200 00	1,200 00
Salary of one rate clerk	2,700 00	2,700 00
Salary of one assistant rate clerk	1,350 00	1,350 00
Salary of one expert accountant	2,700 00	2,700 00
Salaries of two engineers and other necessary expenses	4,500 00	3,000 00
Salary of porter	360 00	360 00
Transportation of members of Commissioners and clerks	500 00	500 00
Sheriffs' and witnesses' fees and mileage ...	500 00	500 00
Postage, stationery and books, telegraphing and express charges	1,000 00	1,000 00
Office furniture, fixtures and files	100 00	100 00
Contingent expenses	100 00	100 00

Public Buildings and Grounds.

Salary of Superintendent	1,500 00	1,500 00
Salary of engineer	1,200 00	1,200 00
Salary of assistant engineer, who shall per- form all work required of him by Superin- tendent	720 00	720 00
Salaries of four watchmen, at \$720 each ...	2,880 00	2,880 00
Salaries of two firemen at \$600 each	1,200 00	1,200 00
For traveling expenses of Superintendent of Public Buildings and Grounds	200 00	200 00
Salaries of four cleaners at \$360 each	1,440 00	1,440 00
Salary of elevator man	720 00	720 00
Labor in Capitol grounds, cemetery grounds, and for keeping sewer in repair	800 00	800 00
Headstones for Confederate veterans buried in State cemetery	300 00	300 00
Headstones for Texas veterans buried in State cemetery	100 00	100 00

	Year ending—	
	Feb. 28, 1896.	Feb. 28, 1897.
Water, fuel and lights and contingencies . . .	\$10,000 00	\$10,000 00
Oil and water for engine, dynamo and steam pumps, oil for wainscoating, drawing paper for plans, stationery, and oil for lamps . . .	600 00	600 00
Repairs and painting for two years and new water closets	6,000 00	
Tools	100 00	100 00
Salary for one watchman for one month . . .	60 00	

Pensions.

To pay of veterans under general laws	58,500 00	58,500 00
Dillard Cooper, special pensioner	250 00	250 00
John Day, special pensioner	100 00	100 00
Mrs. S. L. Cole, special pensioner	150 00	150 00
P. H. Bell, special pensioner	150 00	150 00
Madam Candelaria	150 00	150 00

Public Debt.

For interest on public debt	224,420 20	224,420 20
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Quarantine Department.

For quarantine department	33,000 00	33,000 00
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State Lunatic Asylum at Austin.

Salary of superintendent	2,000 00	2,000 00
Salary of first assistant physician	1,500 00	1,500 00
Salary of second assistant physician	1,500 00	1,500 00
Salary of bookkeeper and steward	1,000 00	1,000 00
Salary of matron	600 00	600 00
Salary of apothecary	600 00	600 00
Salary of supervisor	480 00	480 00
Salary of supervisoress	480 00	480 00
Salary of outside supervisor	600 00	600 00
Salary of chief engineer	900 00	900 00
Salary of assistant engineer and electrician . .	600 00	600 00
Salary of gardener	360 00	360 00
Salary of chief cook	600 00	600 00
Salary of first assistant cook	300 00	300 00
Salaries of three assistant cooks at \$20 per month	720 00	720 00
Salary of baker	480 00	480 00
Salary of carpenter	720 00	720 00
Salary of assistant carpenter and blacksmith .	480 00	480 00
Salaries of two firemen at \$30 per month . .	720 00	720 00
Salaries of seven night watch at \$30 per month	2,520 00	2,520 00
Salary of head laundress	360 00	360 00

	Year ending— Feb. 23, 1896.	Feb. 23, 1897.
Salary of assistant head laundress	\$300 00	\$300 00
Salaries of six laundresses, at \$20 per month	1,440 00	1,440 00
Salary of head seamstress	300 00	300 00
Salaries of six seamstresses at \$20 per month,	1,440 00	1,440 00
Salaries of fifty attendants at \$20 per month,	12,000 00	12,000 00
Salaries of two skilled nurses, at \$30 per month,	720 00	720 00
Salaries of three farm hands at \$20 per month,	720 00	720 00
Salary of dairyman	360 00	360 00
Salary of plasterer and painter	480 00	480 00
Salary of storekeeper	420 00	420 00
Salaries of three dining room girls and cham- bermaids at \$20	720 00	720 00
Salary of a scavenger	240 00	240 00
Groceries, fuel, lights and water (Provided, that \$700 of this appropriation may be used to purchase hose and fixtures for firedepart- ment), including pay for members of board at \$5 per month for attending meetings of board	62,500 00	62,500 00
Dry goods and clothing	12,000 00	12,000 00
Furniture and beds	1,000 00	1,000 00
General repairs	4,000 00	4,000 00
Transportation of patients	1,000 00	1,000 00
Medical stores	2,000 00	2,000 00
Literature and music	750 00	750 00
Contingent expenses	750 00	750 00
Cows, horses, mules and hogs	250 00	250 00
Hacks, wagons, harness and farm tools	200 00	200 00
Trees, seeds and flowers	125 00	125 00
Laundry machinery	500 00	500 00
Repairing fences	125 00	125 00
Engineers' and carpenters' tools	125 00	125 00
Painting standpipe	50 00	50 00
Painting roofing and outside wood work on all buildings, to be used in two years	1,500 00	

Provided, that the interest on all securities held by the lunatic asylum fund is hereby appropriated in part payment of the appropriations of the three lunatic asylums, the remainder of the appropriations to be paid out of general revenue. All moneys now in or which may hereafter be paid into the treasury for the board and treatment of non-indigent patients, and from sales of personal property of the lunatic asylums of Austin, Terrell and San Antonio shall be paid over to the State Treasurer monthly and credited by him to the general revenue account.

North Texas Insane Asylum.

Year ending—
Feb. 28, 1896. Feb. 28, 1897.

Salary of Superintendent	\$2,000 00	\$2,000 00
Salary of first assistant physician	1,500 00	1,500 00
Salary of second assistant physician	1,500 00	1,500 00
Salary of bookkeeper and steward	1,000 00	1,000 00
Salary of matron	600 00	600 00
Salary of apothecary	600 00	600 00
Salary of head farmer	480 00	480 00
Salary of storekeeper	480 00	480 00
Salary of engineer and plumber	720 00	720 00
Salary of assistant engineer and electrician ..	480 00	480 00
Salary of ward supervisor and assistant steward	480 00	480 00
Salary of ward supervisoress	480 00	480 00
Salary of head carpenter	720 00	720 00
Salary of assistant carpenter	480 00	480 00
Salary of three firemen at \$30 per month ...	1,080 00	1,080 00
Salary of painter and plasterer	480 00	480 00
Salary of gardener	480 00	480 00
Salary of assistant gardener and florist	360 00	360 00
Salary of scavenger	240 00	240 00
Salaries of three farm hands at \$20 per month,	720 00	720 00
Salary of head cook	600 00	600 00
Salary of first assistant cook	300 00	300 00
Salary of second assistant cook	240 00	240 00
Salary of third assistant cook	240 00	240 00
Salary of baker	480 00	480 00
Salary of assistant baker	240 00	240 00
Salary of head laundress	360 00	360 00
Salaries of eight laundresses at \$20 per month	1,920 00	1,920 00
Salary of head seamstress	300 00	300 00
Salaries of six seamstresses at \$20 per month	1,440 00	1,440 00
Salaries of sixty attendants, or so many thereof as may be necessary, who shall re- ceive an average of \$20 per month	14,400 00	14,400 00
Salaries of four special nurses at \$25 per month	1,200 00	1,200 00
Salary of one outside watchman	360 00	360 00
Salaries of five night watchmen	1,800 00	1,800 00
Salary of one dairyman	360 00	360 00
Salary of one assistant dairyman	240 00	240 00
Groceries, fuel, lights, and water, including pay for members of board at \$5 per month for attending meetings of the board and mileage	70,000 00	70,000 00
Transportation	1,000 00	1,000 00
Contingent expenses	1,000 00	1,000 00
Dry goods and clothing	12,000 00	12,000 00
Medical stores	2,000 00	2,000 00
Trees, seed and stock	250 00	250 00
Wagons, hacks and harness	300 00	300 00
Carpenters' tools	100 00	100 00

	Year ending—	
	Feb. 28, 1896.	Feb. 28, 1897.
Engineers' tools	\$100 00	\$100 00
Mowers, plows and farm implements	300 00	300 00
Furniture and beds	2,000 00	2,000 00
General repairs and preservation, to be used in two years	6,000 00	
Painting roof	1,000 00	
Expense of board to Austin	150 00	150 00
Mules, horses, cows and swine	250 00	250 00
Literature and amusement	500 00	500 00
Relathing and plastering entire administra- tion building	600 00	
Roofing administration building	550 00	
Stationery and printing	400 00	400 00
Pipes and piping	1,000 00	1,000 00
Bridges, culverts and grounds	300 00	
Laundry machinery	1,000 00	
Exhaust heater and pump	800 00	
Painting standpipe	100 00	
Fencing	100 00	
Basement floors, to be used second year ....	.....	4,000 00

Southwestern Insane Asylum.

Salary of Superintendent	2,000 00	2,000 00
Salary of assistant superintendent	1,500 00	1,500 00
Salary of bookkeeper and steward	1,000 00	1,000 00
Salary of matron and supervisoress	600 00	600 00
Salary of supervisor and assistant steward ..	480 00	480 00
Salary of engineer and plumber	720 00	720 00
Salary of head farmer and outside supervisor,	480 00	480 00
Salary of additional gardner	360 00	360 00
Salary of chief cook	480 00	480 00
Salary of first assistant cook	300 00	300 00
Salary of second assistant cook	240 00	240 00
Salary of baker	480 00	480 00
Salary of carpenter	480 00	480 00
Salaries of two firemen	720 00	720 00
Salaries of two night watchmen	720 00	720 00
Salary of head laundress	360 00	360 00
Salaries of three laundresses	720 00	720 00
Salary of head seamstress	300 00	300 00
Salary of one seamstress	240 00	240 00
Salaries of twenty attendants or as many thereof as may be necessary	4,800 00	4,800 00
Salary of one dairyman	300 00	300 00
Salary of two farm hands	480 00	480 00
Groceries and provisions, including pay for members of the board at \$5.00 per month for attending meetings of the board and mileage	20,000 00	20,000 00

	Year ending—	
	Feb. 28, 1896.	Feb. 28, 1897
Dry goods and clothing	\$3,500 00	\$3,500 00
Furniture	500 00	1,000 00
Transportation of patients	400 00	400 00
Water, fuel and lights	5,500 00	5,500 00
Medical stores and instruments	750 00	750 00
General repairs	1,000 00	750 00
Contingent expenses	500 00	500 00
Expenses of board of managers to Austin..	100 00	100 00
Literature and music	400 00	400 00
Trees, seeds and tools	200 00	200 00
Additional equipment for laundry and kitchen	500 00	

Blind Asylum.

Salary of Superintendent	2,000 00	2,000 00
Salary of oculist	900 00	900 00
Salary of steward and bookkeeper	720 00	720 00
Salary of matron	480 00	480 00
Salary of assistant matron	400 00	400 00
Salaries of teachers in school, music, kindergarten, shops, etc.	9,000 00	9,000 00
Salary of one music reader	540 00	540 00
Salaries of two nurses and children's attendants	450 00	450 00
Salary of teacher of sewing and seamstress..	400 00	400 00
Salary of one monitor and boys' attendant..	270 00	270 00
Salary of one night watchman	500 00	500 00
Salaries of one engineer and one assistant..	1,000 00	1,000 00
Salaries of cooks and baker	900 00	900 00
Salaries of laundresses	800 00	800 00
Transportation of indigent pupils, to be paid out on voucher filed	1,000 00	1,000 00
Clothing for indigent pupils	1,000 00	1,000 00
For groceries, provisions, contingent expenses and miscellaneous, including \$5 per month for each of five trustees and printing necessary for benefit of school	20,500 00	20,500 00
Ordinary repairs on premises	750 00	1,000 00

Deaf and Dumb Asylum.

Salary of Superintendent	2,000 00	2,000 00
Salary of principal teacher	1,500 00	1,500 00
Salary of first assistant teacher	1,000 00	1,000 00
Salary of second assistant teacher	900 00	900 00
Salary of third assistant teacher	900 00	900 00
Salary of fourth assistant teacher	600 00	600 00
Salary of fifth assistant teacher	600 00	600 00
Salary of sixth assistant teacher	600 00	600 00
Salary of seventh assistant teacher	600 00	600 00

	Year ending—	
	Feb. 23, 1896.	Feb. 23, 1897.
Salary of eighth assistant teacher	\$600 00	\$600 00
Salary of ninth assistant teacher	600 00	600 00
Salary of tenth assistant teacher	480 00	480 00
Salary of eleventh assistant teacher	480 00	480 00
Salary of twelfth assistant teacher	480 00	480 00
Salary of thirteenth assistant teacher	480 00	480 00
Salary of articulation or oral teacher	720 00	720 00
Salary of first assistant oral teacher.....	648 00	648 00
Salary of second assistant oral teacher....	480 00	480 00
Salary of art teacher	600 00	600 00
Art supplies	100 00	100 00
Salary of secretary and steward	900 00	900 00
Salary of first matron	480 00	480 00
Salary of second matron	480 00	480 00
Salary of night watchman	360 00	360 00
Salary of gardener	360 00	360 00
Salary of first laborer	300 00	300 00
Salary of second laborer	240 00	240 00
Salaries of five washers and ironers.....	900 00	900 00
Salary of baker	360 00	360 00
Salary of first cook	360 00	360 00
Salary of assistant cook	216 00	216 00
Salary of engineer	900 00	900 00
Salary of monitor	480 00	480 00
Salary of monitress for girls	360 00	360 00
Salary of monitress for little boys.....	360 00	360 00
Salary of expert shoemaker, expert binder and teacher	720 00	720 00
Salary of expert carpenter	720 00	720 00
Salary of expert printer	900 00	900 00
Supplies, provisions, etc., which shall include the pay of trustees, \$5.00 each per month for services attending business meetings of the board	18,000 00	18,000 00
Water for fire protection	550 00	550 00
Furniture	1,000 00	1,000 00
Clothing and transportation of indigent pupils	1,000 00	1,000 00
Repairs and improvements on buildings and grounds	5,000 00	
Renewing and refitting electric appliances for institution	900 00	

Provided, that the interest on all securities held by the Deaf and Dumb Asylum fund is hereby appropriated in part payment of the above appropriations, the remainder of the appropriations to be paid out of the general revenue.

State Orphans Asylum.

Year ending—
Feb. 28, 1896. Feb. 28, 1897.

All of the available fund belonging to the asylum for the support and maintenance; in addition thereto from the general revenue the following:

Salary of Superintendent	\$1,000 00	\$1,000 00
Salary of Assistant Superintendent and Ma- trons	540 00	540 00
Salaries of two teachers	900 00	900 00
Salaries of two assistant teachers	540 00	540 00
Salaries of one cook and two assistants....	600 00	600 00
Salary of one baker	300 00	300 00
Salaries of four laundresses	900 00	900 00
Salaries of two seamstresses	480 00	480 00
Salary of physician	900 00	900 00
Salary of farm labor	500 00	500 00
Salary of one trained nurse	360 00	360 00
Salary of six assistant nurses	1,200 00	1,200 00
Salary of one night watchman	360 00	360 00
Maintenance of inmates	11,500 00	11,500 00
Fuel	500 00	500 00
Postage and stationery	100 00	100 00
Bedding	600 00	600 00
School books, maps and other school apparatus	250 00	250 00
Window curtains, towels and table linen....	200 00	200 00
Transportation	150 00	150 00
Rent of telephone	60 00	60 00
Tableware, crockery and hardware.....	200 00	200 00
Running wire and pole to the Home from electric light station, 2½ miles (to be the property of the State)	1,000 00	
Thirty-five lights for two years at \$1.00 per month per light	420 00	420 00

Deaf, Dumb and Blind Asylum for Colored
Youths.

Salary of Superintendent	1,500 00	1,500 00
Salary of principal teacher at \$75 per month	675 00	675 00
Salaries of three class room teachers, one mu- sic teacher	1,800 00	1,800 00
Salary of one shoemaker	450 00	450 00
Salary of one seamstress	300 00	300 00
Salary of one matron	360 00	360 00
Salary of one oculist	600 00	600 00
Salary of one night watchman	300 00	300 00
Salary of one engineer and plumber	500 00	500 00
Salaries of cook and assistant cook	495 00	495 00
Salary of laundress	440 00	440 00
Salary of gardener and farmer	300 00	300 00
School apparatus, maps, blocks, charts, etc..	125 00	125 00

	Year ending—	
	Feb. 28, 1896.	Feb. 28, 1897.
Transportation of indigent pupils	\$400 00	\$400 00
Clothing for indigent pupils	450 00	450 00
Repairs	300 00	300 00
Furniture	100 00	100 00
Tools and apparatus for workshop	50 00	50 00
Stationery and postage	50 00	50 00
For groceries, provisions and miscellaneous, including pay for members of the board at \$5 per month for attending meetings of the board and mileage	8,000 00	8,000 00

Department of Education.

Salary of Superintendent	2,500 00	2,500 00
Salary of chief clerk	1,600 00	1,600 00
Salary of statistical clerk	1,200 00	1,200 00
Salary of index clerk	1,200 00	1,200 00
Salary of assistant general clerk	1,080 00	1,080 00
Salary of stenographer and typewriter	1,200 00	1,200 00
Salary of examining clerk	1,200 00	1,200 00
Salary of mailing and blank clerk	1,000 00	1,000 00
Salary of porter	360 00	360 00
Traveling expenses of State Superintendent or his representative visiting schools and teachers' and trustees' meetings, and when on other business for the schools	300 00	300 00
Printing and distributing county superin- tendents' record books, treasurers' record books and blank forms	1,200 00	1,200 00
Printing and distributing scholastic census blanks, teachers' daily registers, teachers' reports, and other blank forms for use of school officers and teachers	2,000 00	2,000 00
Printing and distributing school laws, courses of study, examination questions, circulars to school officers and teachers	750 00	750 00
Postage, stationery, necessary office furniture, files, binding reports and other books and pamphlets	1,500 00	1,500 00
Express, freight, telegraphing, books, period- icals and incidental expenses	500 00	500 00

For maintaining the public schools for six months in each year, the support of the public free schools for the years ending August 31, 1896, and 1897, all the available public free school fund of said years, less the amount appropriated from the said fund by this act for other purposes.

For the University of Texas.

Year ending—
Feb. 28, 1896. Feb. 28, 1897

For the support and maintenance of the University of Texas, all of the available fund, including under this head the interest of its bonds, the interest from its land notes, the income from its leases, and the fees of its students, to be under the control of the board of regents, less the appropriation herein made for the Agricultural and Mechanical College; all yearly fees collected from students to be fixed by the regents, and to not more than \$50 per year from each student in the law department, and not more than \$10 per year from each student in academic department.

For payment of current expenses	\$25,000 00	\$22,500 00
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Provided, that \$2,500.00 of the appropriation for the year ending February 29, 1896, may be used to defray the expenses of the management of the University lands.

Medical Branch of the University of Texas.

Maintenance of medical department	38,500 00	38,500 00
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Sam Houston Normal School.

For the support of the Sam Houston Normal School, for the salaries of the faculty and scholarships

.....	30,000 00	25,000 00
Library, apparatus, repairs and improvements	3,000 00	2,000 00

Agricultural and Mechanical College.

For the support and maintenance of the Agricultural and Mechanical College, out of general revenue \$19,500, and out of available University fund \$500 each year.....

.....	20,000 00	20,000 00
Student labor fund	8,000 00	8,000 00
For experimental stations	2,500 00	2,500 00

In addition to the above, the interest on \$209,000 of State bonds held by the Agricultural and Mechanical College fund is hereby further appropriated for the support of this institution: Provided, that the board of directors of the Agricultural and Mechanical College of Texas shall include in their reports the number and salaries of the faculty and employees of the Agricultural and Mechanical College and of the Prairie View Normal School, and the receipts and expenditures, itemized, of each of these institutions in the

Year ending—
Feb. 28, 1896. Feb. 28, 1897.

same manner as the law requires the board of regents to report the salaries and number of the faculties and employees and the receipts and expenditures of the University of Texas.

Live Stock Sanitary Commission.

For expenses, etc.	\$1,750 00	\$1,750 00
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Prairie View State Normal School.

For the maintenance of 46 State students...	10,000 00	10,000 00
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Industrial Department.

For current expenses mechanical department	1,250 00	1,250 00
Current expenses agricultural department...	1,250 00	1,250 00
Current expenses ladies' industrial department	350 00	350 00
Piano	150 00	

Permanent Improvements.

Laundry, to be used in two years.....	500 00	
Repairs and painting buildings, to be used during two years	500 00	
Mules, wagons and harness	600 00	

Texas State Penitentiaries.

The proceeds of all convict labor and in addition thereto for making up deficiencies in monthly expenses and to purchase material to carry on prison industries, which shall be paid out by the Treasurer on the warrant of the Comptroller whenever demanded by the financial agent of the State penitentiaries, to be used during two years.....

	40,000 00	40,000 00
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For conveying convicts to the penitentiaries and reformatory, to be used during two years

	18,000 00	18,000 00
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Traveling expenses of superintendent

	500 00	500 00
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To refund to the convicts of the Rusk penitentiary, through the assistant superintendent thereof, the balance of a defalcation by Wm. Neal Ramey, ex-assistant superintendent

	666 32	
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House of Correction and Reformatory.

Salary of Superintendent	1,800 00	1,800 00
Salary of farm supervisor	500 00	500 00
Salary of engineer	720 00	720 00

	Year ending—	
	Feb. 28, 1896.	Feb. 28, 1897.
Salary of assistant engineer	\$360 00	\$360 00
Salary of bookkeeper	600 00	600 00
Salary of steward	360 00	360 00
Salaries of two teachers at \$35 per month ..	840 00	840 00
Salaries of four night guards at \$30 per month.	1,440 00	1,440 00
Salaries of day guards, \$25 per month	3,600 00	3,600 00
Salary of physician	400 00	400 00
Salary of chaplain	200 00	200 00
Salaries of three trustees	450 00	450 00
Maintenance, including compensation and mileage as prescribed to members of the board of directors for attending meetings of the board	18,000 00	20,000 00
Fuel	1,600 00	1,600 00
Books and slates	250 00	250 00
Medicine	200 00	200 00
Postage and express	200 00	200 00
Discharge and transportation of discharged inmates	1,400 00	1,600 00
Literature and library for boys	200 00	200 00
Farm implements	300 00	300 00
Iron beds	240 00	275 00
Contingent fund	500 00	500 00

Miscellaneous.

For relief of liquor dealers	12,500 00	10,000 00
For payment of claims accruing for construc- tion of booths and guard rails in cities adopting the provisions of the act relating to elections known as the Australian ballot system		500 00

Confederate Home.

For maintenance of inmates at \$12 per month each, including compensation as prescribed by law to members of the board of directors for attending meetings of the board	22,000 00	28,000 00
Salary of superintendent	1,500 00	1,500 00
Salary of quartermaster	600 00	600 00
Salary of surgeon	600 00	600 00
Salary of chief cook	480 00	480 00
Salary of assistant cook	240 00	240 00
Salaries of four waiters	720 00	720 00
Salaries of three nurses	720 00	720 00
Salary of one helper	240 00	240 00
Salary of laundress	240 00	240 00
Salary of assistant laundress	180 00	180 00
Transfer of inmates	250 00	250 00

	Year ending—	
	Feb. 28, 1896.	Feb. 28, 1897.
Salary of night watchman	\$480 00	\$480 00
Two new cottages	4,000 00	4,000 00
For three milk cows	150 00	

Sec. 2. The fact that the monthly expenses of the State government are due and it is important that the same be promptly paid, creates an emergency and public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and the same is hereby suspended.

Approved May 3, 1895.

[Note.—Items appearing in original bill on file in the office of the Secretary of State, but vetoed by the Governor. are omitted.]

APPROPRIATION—DEFICIENCY.

CHAP. 87.—[S. B. No. 238.] An act making appropriations for registered and estimated deficiencies in the appropriations for the State government from March 1, 1893, to February 28, 1895, and for previous years.

Section 1. Be it enacted by the Legislature of the State of Texas: That the following sums, or so much thereof as may be necessary, be and the same are hereby appropriated for registered and estimated deficiencies:

Adjutant General's Department.

	Registered.	Estimated.
For pay of Texas Volunteer Guard, when called into active service under the law, and for expenses incurred in holding annual encampments, etc.	\$4,347 27	
Services rendered by the Sealy Rifles of Galveston, Texas, in assisting to preserve the peace and maintain the law, by order of Adjutant General W. H. Mabry, July 11, 12, 13 and 14, 1894		\$224 00

Department of Agriculture, Insurance, Statistics and History.

For rent of telephone, February, 1893	5 00
For bill of Ben C. Jones & Co., for printing, binding, etc., for library	115 25
For salary of porter and custodian of property of Geological Survey for 12 months ending February 28, 1895	300 00

Public Buildings and Grounds.

	Registered.	Estimated.
For water, fuel, light and contingencies....	\$828 83	\$3,733 62
For tools		75 00
For repairing sewer		100 00
Oil, waste and water		150 00
Salary of extra elevator man three months ..		180 00
Salary of pump man three months		150 00

Judiciary Department.

For salary of special judges	1,861 01	800 00
Fees and costs of sheriffs, clerks and attorneys in felony cases	74,432 60	40,000 00
Fees of county judges, justices of the peace, sheriffs and constables in examining trials .	882 00	250 00
For attached witnesses	32,765 20	14,000 00

Court of Criminal Appeals.

For contingent expenses, 1893	15 65
Furniture	13 65

Court of Civil Appeals—First District.

For postage	20 00
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Court of Civil Appeals—Second District.

For postage, 1893	75 50	
For books for library, 1893	2 50	
For contingent expenses, 1893	29 40	
For record books, stationery, etc., 1894	16 89	50 00
For furniture, 1894	8 05	100 00
For postage, 1894	27 00	50 00
For salary of stenographer from January 10, 1894, to February 28, 1895		1,366 66
For salary of stenographer from May 10, 1893, to September 1, 1893, at \$100.00 per month	366 67	
For contingent expenses, 1894	24 80	30 00
For books for library, 1894	78 20	

Court of Civil Appeals, Third District.

For record books and stationery, 1893	24 75
For contingent expenses, 1893	4 94
For law books, 1894	36 00
For bailiff hire two years	250 00
For postage, 1894 and 1895	29 00

Court of Civil Appeals, Fourth District.

	Registered.	Estimated.
For salary of assistant reporter, 17 months at \$125.00 per month, Thos. McNeal, reporter	\$2,125 00	
For postage, 1893 and 1894	250 00	
For stationery	1,246 35	
For typewriter	102 50	
For salary of stenographer from September 15, 1893, to February 28, 1895, 17½ months at \$50.00 per month	875 00	
For contingent expenses	13 85	

Court of Civil Appeals, Fifth District.

For salaries of three judges	641 40	
For salary of W. J. J. Smith, assistant reporter, 17 months at \$125.00 per month .		\$2,125 00
For amount paid by G. W. Blair, clerk	658 30	
For amount paid stenographer by G. W. Blair, clerk	1,800 00	
For stationery, Clarke & Courts	771 15	
For stationery, Geo. D. Barnard & Co.	214 40	
For furniture, Halsell & Young	100 00	
For furniture, L. F. Rick	75 00	

Treasury Department.

For expenses in retiring State bonds. 1892 .	66 17
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North Texas Insane Asylum.

For furniture and beds, 1895	17 46	
For general repairs	347 59	
St. Louis Steam Heating and Ventilating Company	200 00	
For furniture and beds		50 00
For general repairs		150 00
For literature and amusement		25 00
For contingent expenses		25 00
For painting wards		15 00

Southwestern Insane Asylum.

For standpipe, pump, pipe and piping. 1893	2,034 07	
For water, fuel and lights. 1895	748 21	750 00
For general repairs	683 10	

Colored Deaf, Dumb and Blind Asylum.

For groceries, provisions, etc., 1893	17 07	
For salaries of board of trustees for two years ending February 28, 1895		500 00

House of Correction and Reformatory.

	Registered.	Estimated.
For contingent fund, 1893	\$7 25	
For salaries of board of trustees for two years ending February 28, 1895		\$500 00

Railway Commission.

For salary of Charles Corner as expert civil engineer last half of January and all of February, 1895	240 00
For salary of H. J. Simmons as expert engin- eer last half of January and all of February, 1895	240 00

State Lunatic Asylum.

Furniture, beds, etc.		23 14
For horses, mules, etc.	16 35	
For hacks, wagons, etc.		47 50

Miscellaneous.

For publishing Supreme Court Reports, 1894	390 10	
For publishing reports of Courts of Civil Ap- peals, 1894	75 63	
For publishing constitutional amendments ..		6,000 00
For relief of John Day, a special pensioner, omitted from appropriation bill, 1893	200 00	
For relief of liquor dealers	9,463 31	3,500 00
For payment of H. L. White, assessor of Mot- ley county, 1892, for assessing taxes for said county for said year, as shown by draft of comptroller on the collector of said county, No. 6661, dated at Austin, Sep- tember 8, 1892		623 64
For payment of E. R. Tarver for five (5) days' service as special judge in district court of Zapata county at July term, 1889, of the district court of said county		27 20
For balance due Ben C. Jones & Co., for 500 copies of proceedings of the high court of impeachment, Twenty-third Legislature ..	348 94	

Provided, that no part of the appropriation herein made for the salaries of special judges shall be applied to the payment of any such judges, who, sitting as judges of the Criminal Court of Appeals, shall have held under advisement for as long a period as twelve months the case or cases that they were appointed to try, thereby denying persons charged with crime the constitutional right of a speedy trial, and depriving them of their liberty: And provided, further, that hereafter no officer, superintendent or employe of the State shall create any debt against the State of Texas, except where specifically provided by law, and where an appropriation has been made therefor, or authorized by law.

Sec. 2. The fact that there is no appropriation to pay the claims herein stated, which are registered and estimated as outstanding against the the State, creates an emergency and imperative public necessity which justifies the suspension of the constitutional rule requiring bills to be read on three several days in each house, and this act should take effect from and after its passage, and it is so enacted.

Approved May 3, 1895.

[Note.—Items appearing in original bill, on file in the office of the Secretary of State, but vetoed by the Governor, are omitted.]

QUARANTINE.

CHAP. 88.—[S. B. No. 230.] An act to amend sections 3 and 10 of an act entitled "An act to regulate the establishment of quarantine in the State of Texas and in the counties, cities and towns thereof, and to repeal all laws and parts of laws in conflict therewith," approved April 29, 1891.

Section 1. Be it enacted by the Legislature of the State of Texas: That section 3 of said act be amended so as to read: "Such health officer (State health officer) shall, during the time he is engaged in the public service, receive for his services twenty-five hundred dollars per year, and his necessary traveling expenses incurred in the discharge of his legitimate duties, a bill of which must be made out in detail and approved by the Governor, on which approved account the Comptroller shall issue his warrant on the Treasurer for the amount of said approved account." Amend section 10 of said act so as to read: All the costs and expenses of enforcing and maintaining the general quarantine or such as are ordered by the Governor or State health officer shall be paid out of the fund appropriated for quarantine purposes. All quarantine officers appointed by the Governor shall be selected and commissioned by the Governor of the State, and shall be paid by the State, and all health authorities of the State, or of any county or city thereof, shall obey the rules and regulations prescribed by the Governor or State health officer. The regular officers in charge of regular established quarantine stations on the coast shall be allowed one hundred and fifty dollars per month while on duty at their respective stations: Provided, that the provisions of this act **shall not apply to the port of Galveston:** And provided, that **the officer** in charge of said station shall receive two hundred dollars per month. Temporary officers, or those commissioned by the Governor to guard against threatened epidemics, and those stationed at railway crossings on the Rio Grande shall receive one hundred and fifty dollars per month while on duty, and such other pay for extra expenses actually incurred as may be deemed just by the Governor and State health officer. All quarantine officers, whether of towns, cities, counties or State, shall be authorized to administer oaths to any person or persons suspected of violating any quarantine regulations, and any person or persons swearing falsely shall be punished according to the provisions of the Penal Code.

Sec. 2. All laws and parts of laws in conflict with this act are hereby repealed.

Sec. 3. The fact that appropriations must be made for the support of these officers creates an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and this act take effect and be in force from and after its passage, and it is so enacted.

Approved May 4, 1895.

PERSONAL INJURIES.

CHAP. 89.—[H. B. No. 32.] An act to provide for the survival of causes of action for personal injuries, other than those resulting in death, and for the enforcement thereof.

Section 1. Be it enacted by the Legislature of the State of Texas: That from and after the passage of this act causes of action upon which suit has been or may hereafter be brought by the injured party for personal injuries other than those resulting in death, whether such injuries be to the health or to the reputation or to the person of the injured party, shall not abate by reason of his death, nor by reason of the death of the person against whom such cause of action shall have accrued; but in the case of the death of either or both, such cause of action shall survive to and in favor of the heirs and legal representatives of such injured party and against the person, receiver or corporation liable for such injuries and his legal representatives; and so surviving such cause may be thereafter prosecuted in like manner and with like legal effect as would a cause of action for injuries to personal property.

Sec. 2. The fact that there is no law providing for the survival of such causes of action, and that this Legislature is nearing its close, constitutes an emergency and an imperative public necessity that the rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved May 4, 1895.

COUNTIES—GRAY ATTACHED TO ROBERTS.

CHAP. 90.—[S. B. No. 257.] An act to attach Gray county to Roberts county for judicial purposes.

Section 1. Be it enacted by the Legislature of the State of Texas: That the unorganized county of Gray be and the same is hereby attached to the county of Roberts for judicial purposes.

Sec. 2. All laws and parts of laws in conflict with this act are hereby repealed.

Sec. 3. The near approach of the close of the session of the Legislature and the great number of bills to be disposed of, and of the convenience of the people of Gray county demand that this act should take immediate effect; therefore an imperative public necessity and an emer-

gency exists requiring the constitutional rule requiring bills to be read on three several days in each house be suspended, and this act take effect and be in force from and after its passage, and it is so enacted.

Approved May 4, 1895.

SUPREME COURT—WRITS OF ERROR TO COURTS OF CIVIL APPEALS.

CHAP. 91.—[S. B. No. 120.] An act to amend article 1011b of the Revised Civil Statutes of Texas, as amended by an act entitled "An act to amend articles numbers 1002, 1005, 1011, 1012, 1014, 1017, 1019, 1023, 1024, 1025, 1033, 1039, 1043, 1044, 1049, 1050, 1056, 1057, 1058, 1060 of the Revised Civil Statutes of Texas, and to add articles 1011a, 1011b, 1011c, 1011d, 1011e, and to repeal articles numbers 1006, 1007, 1008, 1009, 1034, 1035, 1036, 1037, 1038, 1045, 1046, 1048 of the same title of the Revised Civil Statutes of Texas, and to provide for the transfer of cases pending in the Supreme Court to the Court of Civil Appeals," passed by the special session of the Twenty-second Legislature, approved April 13, 1892, relating to writs of error from the Supreme Court to the Courts of Civil Appeals.

Section 1. Be it enacted by the Legislature of the State of Texas: That article 1011b of the Revised Civil Statutes of Texas, as amended by chapter 14 of the acts of the special session of the Twenty-second Legislature, be amended so as to read as follows:

Article 1011b. Any party desiring to sue out a writ of error before the Supreme Court shall present his petition addressed to said court, stating the nature of his case and the grounds upon which the writ of error is prayed for, and showing that the Supreme Court has jurisdiction thereof; and the petition shall contain such other requisites as may be prescribed by the Supreme Court. The petition shall be filed with the clerk of the Court of Civil Appeals within thirty days from the overruling of the motion for rehearing, and thereupon the said clerk of the Court of Civil Appeals shall note upon his record the filing of said application, and shall forward to the clerk of the Supreme Court the said application, together with the original record in the case, and the opinions of the Court of Civil Appeals, and the motion filed therein, and certified copies of the judgments and orders of the Court of Civil Appeals: Provided, that the party applying for the writ of error shall deposit with the clerk of the Court of Civil Appeals a sum sufficient to pay the expressage or carriage of the said record to and from the clerk of the Supreme Court, which sum shall be charged as costs in the suit. If the writ of error be granted and the plaintiff in error has given no bond, then the Supreme Court in granting the writ shall specify what bond shall be given, and the plaintiff in error shall file said bond in the trial court, to be approved by the clerk of said court, and a certified copy thereof shall at once be transmitted to the Supreme Court, and upon the filing of said certified copy the clerk of the Supreme Court shall issue the citation in error as may be prescribed by the rules of the Supreme Court.

Approved May 6, 1895.

SUPREME COURT—WRITS OF ERROR TO COURTS OF CIVIL APPEALS.

CHAP. 92.—[S. B. No. 123.] An act to amend article 1011a of the Revised Civil Statutes of Texas, as amended by "An act entitled an act to amend articles Nos. 1002, 1005, 1011, 1012, 1014, 1017, 1019, 1023, 1024, 1025, 1033, 1039, 1043, 1044, 1049, 1050, 1056, 1057, 1058, 1060 of the Revised Civil Statutes of Texas, and to add articles 1011a, 1011b, 1011c, 1011d, and 1011e, and to repeal articles Nos. 1006, 1007, 1008, 1009, 1034, 1035, 1036, 1037, 1038, 1045, 1046, 1048 of the same title of the Revised Civil Statutes of the State of Texas, and to provide for the transfer of cases pending in the Supreme Court to the Court of Civil Appeals," passed by the special session of the Twenty-second Legislature, approved April 13, 1892, relating to writs of error from the Supreme Court to the Courts of Civil Appeals.

Section 1. Be it enacted by the Legislature of the State of Texas: That article 1011a of the Revised Civil Statutes of Texas, as amended by chapter 14 of the acts of the special session of the Twenty-second Legislature, be amended so as to read as follows:

Article 1011a. All cases shall be carried up to the Supreme Court by writs of error upon final judgment, and not on judgments reversing and remanding cases, except in the following cases, to-wit:

1. Where the State is a party or where the Railroad Commissioners are parties.

2. Cases which involve the construction and application of the Constitution of the United States or of the State of Texas, or of an act of Congress.

3. Cases which involve the validity of a statute of the State.

4. Cases involving the title to a State office.

5. Cases in which a Civil Court of Appeals overrules its own decisions or the decision of another Court of Civil Appeals, or of the Supreme Court.

6. Cases in which the judges of any Court of Civil Appeals may disagree.

7. Cases in which any two of the Courts of Civil Appeals may hold differently on the same question of law.

8. When the judgment of the Court of Civil Appeals reversing a judgment practically settles the case, and this fact is shown in the petition for writ of error, and the attorneys for petitioners shall state that the decision of the Court of Civil Appeals practically settles the case, in which case, if the Supreme Court affirms the decision of the Court of Civil Appeals, it shall also render final judgment accordingly.

Whereas, there are a great number of bills now pending, and the session is nearing its close, therefore there exists an imperative public necessity and emergency that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect from and after its passage, and it is so enacted.

Approved May 6, 1895.

FEES—SHERIFFS AND CONSTABLES.

CHAP. 93.—[S. B. No. 170.] An act to amend an act entitled "An act to amend article 1054, chapter 2, title 15, of the Code of Criminal Procedure, as amended by an act of the Twenty-first Legislature, approved April 4, 1889, constituting Chapter 93, General Laws of the State of Texas, 1891."

Section 1. Be it enacted by the Legislature of the State of Texas: That an act entitled "An act to amend article 1054, chapter 2, title 15, of the Code of Criminal Procedure, as amended by an act of the Twenty-first Legislature," approved April 4, 1889, be and the same is hereby amended so as hereafter to read as follows:

Article 1054. To the sheriff or constable shall be allowed the following fees in all cases when the charge is a felony, and all fees accruing under this article shall be due and payable at the close of each term of the district court after approval as herein provided, except as provided for in subdivisions 8 and 9, which shall be paid when approved by the judge under whose order the writ was issued: Provided, that in all cases when the defendant shall be finally convicted of a misdemeanor the sheriff shall be required to pay back to the Treasurer of the State a sum of money equal to the amount he may have received from the State in such case, and said sheriff and his bondsmen shall be responsible to the State for such sum.

1. For executing each warrant of arrest or *capias*, or for making arrest without warrant, when authorized by law, the sum of one dollar. and 5 cents for each mile actually and necessarily traveled in going to place of arrest, and for conveying the prisoner or prisoners to jail, mileage as provided for in subdivision 5 shall be allowed.

2. For summoning or attaching each witness, fifty cents.

3. For summoning jury in each case where jury is actually sworn in, two dollars.

4. For executing death warrant, fifty dollars.

5. For removing a prisoner, for each mile going and coming, including guards and all other expenses when traveling by railroad, 10 cents; when traveling otherwise than by railroad, 15 cents: Provided, that when more than one prisoner is removed at the same time, in addition to the foregoing, he shall only be allowed 10 cents a mile for each additional prisoner: Provided, further, that when an officer goes beyond the limits of the State after a fugitive on requisition of the Governor, he shall receive such compensation as the Governor shall allow for such services.

6. For each mile the officer may be compelled to travel in executing criminal process, summoning or attaching witnesses, five cents: Provided, that in no case shall he be allowed to duplicate his mileage when two or more witnesses are named in the same or different writs in any case, and he shall serve process on them in the same vicinity or neighborhood or during the same trip, he shall not charge mileage for serving such witness to and from the county seat, but shall only charge one mileage, and for such additional miles only as are actually and necessarily traveled in summoning or attaching each additional witness. When process is sent by mail to any officer away from the county seat or returned by mail by such officer, he shall only be allowed to charge mileage for the miles actually traveled by him in executing such process, and the return of the

officer shall show the character of the service and miles actually traveled in accordance with this subdivision, and his accounts shall show the facts.

7. To officers for service of criminal process not otherwise provided for, the sum of five cents a mile going and returning shall be allowed: Provided, if two or more persons are mentioned in the same or different writs the rule prescribed in subdivision 6 shall apply.

8. For conveying a witness attached by him to any court or grand jury, or in a habeas corpus proceeding out of his county, or when directed by the judge from any other county to the court where the case is pending, one dollar per day for each day actually and necessarily consumed in going and returning from such court, and his actual necessary expenses by the nearest practicable route or nearest practicable public conveyance, the amount to be stated by him in an account which shall show the place at which the witness was attached, the distance to nearest railroad station, and miles actually traveled to reach the court. If horses or vehicles were used, from whom hired and price paid and length of time consumed and amount paid out for feeding horses and to whom. If meals and lodgings were provided, from whom and when and price paid: Provided, that officers shall not be entitled to receive exceeding fifty cents per meal and thirty-five cents per night for lodging for any witness. Said account shall also show, before said officer shall be entitled to compensation for expenses of attached witnesses, that before starting with said witnesses to the foreign court, he carried each of them before the magistrate nearest the place of serving the attachment, giving his name and residence, and that said witness made oath in writing before such magistrate, certified copies of which shall be attached to the account, that they were unable to give bond for their appearance at court, or refused to give bond after having been advised by said officer of their right to do so. And the officer shall also present to the court the affidavit of the witness to the same effect, or shall show that the witness refused to make the affidavit; and should it appear to the court that the witness was able and willing to give bond, the sheriff shall not be entitled to any compensation for conveying such witness, and said accounts shall be sworn to by the officer, before any officer authorized to administer oaths, and shall state that said account is true, just, and correct in every particular, and present same to the judge, who shall during such term of court carefully examine such account, and if found to be correct in whole or in part, shall so certify, and allow the same for such an amount as he may find to be correct; and if by him allowed in whole or in part, he shall so certify; and such account, with the affidavit of the sheriff and certificate of the judge, shall be recorded by the clerk of the district court, in a book to be kept by him for that purpose, which shall constitute a part of the proceedings or minutes of the court; and the clerk shall certify to the original account, and shall show that the same has been so recorded; and said account shall then become due and the same shall constitute a voucher, on which the Comptroller is authorized to issue a warrant; and such minutes of the court, or a certified copy thereof, may be used in evidence against the officer making the affidavit, for perjury, in case said affidavit shall be willfully false. When the officer receiving a writ for the attachment of such witness shall take a bond for the appearance of any such witness, he shall be entitled to receive from the State one dollar for each bond so taken; but he shall be responsible to the court issuing said writ

that said bond is in proper form and has been executed by the witness with one or more good or solvent securities, and said bond shall in no case be less than \$100: Provided, the Comptroller may require from such officer a certified copy of all such process before auditing any account.

9. For attending a prisoner on habeas corpus, for each day \$2, together with mileage as hereinbefore provided in subdivision 5, when removing such prisoner out of the county under an order issued by a district or appellate judge.

Sec. 2. That all laws and parts of laws in conflict herewith be and the same are hereby repealed.

Sec. 3. The fees now paid sheriffs and constables in felony cases being exorbitant, unreasonable, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect from and after its passage, and it is so enacted.

Approved May 4, 1895.

FEEES—DISTRICT AND COUNTY ATTORNEYS.

CHAP. 94.—[H. B. No. 471.] An act to amend section 62 of an act entitled "An act to organize the Court of Criminal Appeals of the State of Texas; to define the jurisdiction thereof; to prescribe the procedure therein; to fix the places and times of holding the terms of said court; to repeal articles 1064, 1065, 1066, 1067, 1069, 1070, 1071, 1072, 1073, 1074, 1075, 1076, 1077, 1078, 1079, 1080, 1081, 1082, 1083, 1084, 1085 of the Revised Civil Statutes of the State of Texas; to repeal articles 64, 65, 66, 67, 838, 840, 841, 843, 844, 845, 852, 853, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 876, 877, 878, 879, 880, 881, 882, 883, 885, 887, 888, 889, 890, 1049, 1050, 1051, 1052, 1087, 1088, 1089 of the Code of Criminal Procedure of the State of Texas, and all the laws and parts of laws in conflict with the provisions of this act," passed at the first called session of the Twenty-second Legislature of the State of Texas, being chapter 16 of said acts.

Section 1. Be it enacted by the Legislature of the State of Texas: That section 62 of the above recited act be and the same is hereby amended so as to hereafter read as follows:

The district or county attorney shall be allowed the following fees:

1. For all convictions in case of felonies, homicide, when the defendant does not appeal or dies or escapes after appeal and before final judgment of the Court of Criminal Appeals, or when upon appeal the judgment is affirmed, the sum of fifty dollars.

2. For all other convictions of felony when the defendant does not appeal or dies or escapes after appealing and before final judgment of the Court of Criminal Appeals, or when upon appeal the judgment is affirmed, the sum of thirty dollars: Provided, that in all convictions of felony where by the verdict and judgment the defendant is confined in the House of Correction and State Reformatory the fee of the district or county attorney shall be fifteen dollars.

3. For representing the State in each habeas corpus when the defendant is charged with a felony, the sum of twenty dollars.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved May 6, 1895.

LANDS—RELIEF OF ACTUAL OCCUPANTS.

CHAP. 95.—[S. B. 195.] An act for the relief of actual occupants of portions of the unappropriated public domain as homes.

Section 1. Be it enacted by the Legislature of the State of Texas: That whenever the Commissioner of the General Land Office shall find by inspection of the whole body of the application that it was made for the purpose of having a survey made of a portion of the unappropriated public domain for the homestead of the applicant, under "An act for the benefit of actual occupants of the public lands," approved May 26, 1873, and acts amendatory thereof, and upon which application the surveyor did make the survey as required by law, even though his field notes were not returned to the Land Office within twelve months, and shall also find that the proof of occupancy as required by law is fully and properly made, from all of which it shall be manifestly clear to the Commissioner that the applicant had in good faith endeavored to comply with the law hereinbefore recited, but was misled through the omission or ignorance of the officers charged by law to perform their duties in the premises, he shall issue and sign the patent, notwithstanding the application may not have been sworn to, or not signed if sworn to, or shall not have the seal of the officer before whom the affidavit was made attached thereto, and notwithstanding the application may contain a recital of articles 3926 and 3927 of the Revised Civil Statutes of Texas, "An act for the relief of actual occupants of the public lands," approved April 24, 1879, when it shall be manifest from all the papers on file in the Land Office that such recital was erroneously made.

Sec. 2. That nothing in this act shall be construed to allow any applicant to obtain a patent in any case where subsequent settlers have, by reason of any of the failures or delays recited in this act, themselves settled upon any of such lands in good faith as a home, nor thus defeat such subsequent applicant.

Sec. 3. The great importance of this act to innocent persons creates the imperative public necessity for its immediate enforcement, and that the constitutional rule requiring bills to be read on three several days be suspended, and that this act shall take effect at once; therefore said rule is hereby suspended, and this act shall take effect from and after its passage.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 29th day of April, A. D. 1895, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

PARTITION AND DISTRIBUTION OF ESTATES.

CHAP. 96.—[S. S. B. No. 164.] An act to amend article 2126, title 37, chapter 25, of the Revised Civil Statutes of Texas, relating to partition and distribution of estates.

Section 1. Be it enacted by the Legislature of the State of Texas: That article 2126, title 37, chapter 25, of the Revised Civil Statutes of Texas, shall be so amended as to hereafter read as follows:

Article 2126. If any distributee be a minor his share shall be delivered to his guardian, and if such minor has no guardian, and is a resident of this State, the executor or administrator shall retain his share until a guardian of such minor shall be appointed and qualified; and if any distributee be a minor and reside in any other than this State, and the guardianship of such minor or minors may be or has been granted in the State where such minor or minors reside, it shall be lawful for the executor or administrator in this State to settle with and pay or deliver over to such guardian any and all estate in his hands, which shall be as good and valid as if the guardianship had been granted in this State: Provided, said guardian before he receives such estate shall make and enter into a bond as guardian in the matter of the guardianship so pending, conditioned and for the amount prescribed by the court having jurisdiction of such guardianship: And provided further, that he shall produce to the court of the county wherein administration has been or may be granted in this State a certified copy of the bond so given and of the record of his appointment as guardian, with certificates from the clerk and judge of the court in which said guardianship is pending that said appointment and bond are in due and legal form under the laws of the said State; also a copy of his bond as guardian; and if the court shall be satisfied that said guardian has been legally appointed and otherwise complied with the requirements herein, such court shall order to be recorded in the clerk's office of the county court, which, when recorded, shall entitle the guardian to settle for the amount due his ward.

Sec. 2. The near approach of the close of the present session of the Legislature, and the crowded condition of the calendar, creates an emergency and imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect from and after its passage, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 29th day of April, A. D. 1895, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

DRAINAGE.

CHAP. 97.—[H. B. No. 549.] An act to provide for the construction and maintenance of ditches, drains and water courses, and for the improvement and enlargement of natural drainage of the several counties within the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas: That the commissioners court of any county in this State, at any regular or called session thereof, may, in the manner hereinafter provided, and shall have power, whenever the same shall be conducive to the public health, convenience or welfare, or where and whenever the same will be of public benefit or utility, to cause to be straightened, widened, altered, deepened, any creek, bayou or other stream or water course, and shall cause to be constructed and maintained, as hereinafter provided, any ditch, drain or water course within any of the said counties, and shall have power to make the said improvement, if necessary, by removing from any adjacent lands or any stream or water course any timber, bush, tree or other substance liable to or causing the obstruction thereof, and shall also have power to construct in connection with any such ditch or drain any side, lateral, spur or branch ditch or water course necessary to the accomplishment of this act: Provided, however, that no ditch, drain, outlet or water course shall be deepened, widened, constructed or maintained without a sufficient outlet being provided for all water that may collect therein: Provided further, that the word "ditch" in this act hereafter shall be construed to embrace any ditch, drain or water course that may be constructed under the provisions of this act.

Sec. 2. That before the commissioners court of such county shall establish any ditch, drain or water course there shall be filed with the clerk of the county court of said county a petition signed by at least five persons who are land owners and whose land will be liable to be affected by or assessed for the expense of the construction of the same, setting forth the necessity thereof, with a general description of the proposed starting point, route and terminus of the said ditch; and said petitioners shall give a bond not to exceed one hundred dollars, with good and sufficient sureties, payable to the said county, to be approved by the clerk of the said court, conditioned to pay all expenses in case the commissioners court shall fail to establish said proposed ditch, drain or water course. As soon as said petition is filed said court shall, if in regular session, or at their next regular session, appoint a jury of three freeholders and householders of the county, not interested in the construction of the proposed work, and not of kin to any of the parties interested therein, who shall constitute a jury of viewers, who shall meet at a time and place specified by the said court in the order of making said appointment preparatory to commencing their duties as hereinafter specified, and it shall be the duty of the said clerk of the said county court thereupon to issue to the said viewers a certified copy of the petition and order of said court, who shall proceed at the time set in said order with a surveyor, who shall be a civil engineer, or a civil engineer and surveyor, to make an accurate survey of the line of said ditch, drain or water course, from its source to its outlet; and they shall cause stakes or monuments to be set along said line at intervals of 100 feet, together with such interme-

diate stakes as may be necessary, and numbered progressively at each one hundred feet; and they shall establish permanent bench marks along said line, at intervals of one mile or less, as may be necessary; and they shall prepare a map showing the location of said ditch, drain or water course, together with the position of stakes or monuments, with numbers corresponding with those on the ground, and the position of bench marks, with their elevations referred to on assumed or previously determined datum. The map should also show the lines and boundaries of adjacent property, and the position of county roads and railroads which may be affected by said ditch or drain, and such information should be obtained as will lead to the determination of the benefits or damages which will accrue from the construction of the same; and they shall prepare a profile of the line of said ditch, drain or water course, which shall show the assumed datum and the grade line of the bottom of the same, and the elevation of each stake or monument and other important feature along the line, such as top of bank and bottom of all ditches or water course and surface of water, top of rail and bottom of tie, foot of embankment, bottom of burrow pits, of all railroads, and center of road, and bottom and top of ditches of highways. And they shall, in tabular form, give the depth of cut, width at bottom and width at top at the source, outlet, and at each one hundred feet stake or monument of said ditch, drain or water course; and they shall make a computation of the total number of cubic yards of earth to be excavated and removed from said ditch, drain or water course, and an estimate of the total cost of construction of the whole work and they shall prepare specifications in detail for the execution of the same; and they shall have power, when they find it necessary, to provide for running said ditch under ground through drain tiles or other materials, as they may deem best, by specifying size of tile or other kind of material to be used in such underground work, and shall include the cost of same in the estimate of the total cost of the work; and they shall set apart and apportion to each parcel of land, and to each corporation, road or railroad, and to the county when public highways are benefited, a share of said work in proportion to the benefits which will result to each from such improvement, and the cost of the construction of each share or allotment separately. And they shall describe each parcel of land to be assessed in the construction of said ditch, giving the number of acres in each tract assessed and an estimate of the number of acres benefited, the amount that each tract will be benefited by the construction of said work, and the amount of each tract as assessed therefor; and they shall also ascertain and give the names of the owners of the lands that are assessed in the construction of said ditch, drain or water course, as far as they may be able to ascertain by reasonable enquiry and search of the public records, and report whether or not the proposed ditch or drain will be of public utility; and they shall submit with their report a copy of the map and profile of the line of said ditch, drain or water course, and a copy of the specifications for the construction of the same, which, together with the report, shall become a public record, and shall be placed in the custody of the county clerk, to be presented [preserved] as such.

Sec. 3. Whenever a public ditch, drain or water course is located wholly or in part of the bed of a private ditch already or partially constructed, the viewers shall make an estimate of the number of cubic yards of earth

already excavated and the cost of the same on each tract of land, and deduct the same from the assessment thereon.

Sec. 4. All lands benefited by public ditch, drain or water course shall be assessed in proportion to the benefit to the said lands by the construction thereof, whether it pass through said lands or not; and the viewers in estimating the benefit to lands in controversy by said ditch shall not consider what benefit such lands will receive after some other ditch or ditches shall be constructed, but only the benefits that may be received by reason of the construction of the public ditch as it affords an outlet for the drainage of such lands; and in the making of the said assessment should the viewers find that the construction of said ditch or drain would to any extent construct or constitute a public road of utility to the county in that section, or be a material benefit in the drainage of any public road then constructed, they will assess as against the county such sum as will represent the benefit so accruing to the public: Provided, that all assessments for benefits accruing to counties or county roads shall be approved by the commissioners courts of such counties.

Sec. 5. The said jury of viewers, as provided for in this act, shall issue a notice in writing to the land owner through whose lands such proposed ditch or drain may run, or to his or their agent or attorney, of the time when they shall proceed to lay out such ditch, or when they shall proceed to lay out such ditch, or when they will assess the damage incidental to the construction of same, which notice shall be served upon such owner, his agent or attorney, at least five days before the day named therein; if such owner is a non-resident of the county the notice shall be given by publication in a newspaper published in the county, as notices are required to be given to non-resident defendants as to actions in the district or county court, and such ditch or drain may be constructed four weeks after such publication, the cost of publishing the same to be paid as directed by the commissioners court.

Sec. 6. That all persons whose land may be affected by such ditch, drain or water course, shall have the right to appear before said viewers and freely express their opinions on all matters pertaining thereto, and the owner of any such lands may at the time stated in said notice, or previously thereto, present to the jury a statement in writing of any objections to or dissatisfaction therewith, and any claim for damages which he may have by reason of the making of the said ditch or drain; and a failure to make such claim in writing, as herein specified, for damages or compensation, shall be deemed and held a waiver for all right thereto, all of which said claim or objections shall be returned to the commissioners court, in connection with the report of the said viewers.

Sec. 7. The commissioners court, at the time set for the hearing of said petition, shall hear and determine the same, in connection with all remonstrances or objections thereto, and if they find that the said viewers' report is made in accordance with the provisions of this act, and it be in favor of the proposed work, and if they find the proposed ditch or drain to be of public utility, or conducive to public health, or of public benefit or convenience, they shall enter an order on the minutes establishing the same, as specified in the said report, and order the same to be constructed according to the said report, and shall then or thereafter take such further action and make such other and further orders and decrees in the premises as may be proper or necessary to secure the execu-

tion of said work. But should said viewers report adversely to the said work, the board shall dismiss the petition and tax the costs as against the said petitioners.

Sec. 8. The said viewers, before proceeding to act as such, shall take the following oath, before any officer authorized to administer oaths, to-wit: "I do solemnly swear that I will lay out the ditch or drain now directed to be laid out by the order to us directed in the commissioners court, according to law, without favor or affection, malice or hatred, to the best of my ability, skill and knowledge. So help me God."

Sec. 9. Any person or corporation aggrieved thereby may appeal from the final order of the commissioners court made in said proceedings and entered upon their record to the county court of that county within ten days thereafter, by filing within ten days thereafter a transcript of said proceedings in said county court, and also filing within the said ten days with the clerk of the said court an appeal bond, with at least two good sureties, to be approved by the said county clerk, conditioned that he will prosecute such appeal to effect and pay all costs that may be adjudged against him in said court; and the said appeal shall be heard and determined upon the following issues, to-wit:

1. Whether said ditch shall be conducive to the public health, convenience or welfare.

2. Whether the route thereof is practicable.

3. Whether the assessments made for the construction of such ditch are in proportion to the benefits to be derived therefrom.

4. The amount of damages, if any, to be allowed to any person or persons, or corporation; and if more than one person appeal the judge of the said court shall order the said cases to be consolidated and tried together, and the rights of each party shall be separately determined by the said court and jury, if any, in its verdict and final determination, and the cause so appealed and so conducted in said county court shall have precedence over all other causes on the docket of a different nature, and shall be tried and determined as other civil cases in said court. Either party to such action may appeal to such appellate court as has jurisdiction of said cause, and said action shall be returnable at once to said appellate court at either of its terms, and said action so filed shall have precedence in said appellate court of all cases of a different character therein pending.

Sec. 10. In the trial of all cases so appealed from the order of the commissioners court the burden of proof shall rest upon the complainant.

Sec. 11. Every person or corporation through whose lands any public ditch is constructed shall be required to keep the same open, free, and clear from all obstructions upon his or its premises, by him or it placed therein, and in case of failure to do so shall be liable to pay all reasonable and necessary expenses of removing such obstruction.

Sec. 12. Whenever the route of the proposed ditch, drain, or water course extends into two or more counties, then a petition shall be signed by at least five free-holders, one or more of whom are land owners in the county other than that of the filing of the petition, and whose lands will be liable to be assessed for the construction of such ditch, and file the same with the clerk of the commissioners court, the said petition to be filed in the county containing the head or source of the proposed ditch, at least ten days before any regular meeting of the commissioners court

of that county, and thereupon the clerk of such court shall transmit to the clerk of the court of such other county or counties interested therein a certified copy of such petition; and it shall be the duty of the commissioners court of each county interested in the proposed work, at their first regular session after such petition is filed, to appoint three disinterested freeholders and householders of their respective counties as viewers, in like manner as is provided for the appointment of viewers on a ditch in but one county, to meet and act jointly at such time and place as the board of commissioners of the county where the petition is filed may designate, and such joint viewers shall have the same power and perform the same duties as is provided in this act for the viewers on a ditch in one county; and they shall file a report of their proceedings with the clerk of each of said counties so interested at least two weeks before the next regular session of the board of commissioners, whereupon the clerk of each county shall give notice in the manner provided for as to ditches in one county, and the time for the hearing thereof shall be set by the respective courts of each county: Provided further, that in an action of a joint board of viewers the approval and report of a majority of the whole board shall be necessary to constitute a valid report of said board.

Sec. 13. The joint board of viewers, as herein provided for, of the counties interested in said joint ditch, shall proceed to establish the same in the manner specified in ditches in but one county, and in all matters pertaining to such joint ditch the board of commissioners shall act in the same manner, so far as is applicable, as is required by this act for ditches into but one county, and they shall act jointly, and the same shall be determined by the respective orders of the said respective commissioners courts, and such further proceedings had thereon as herein provided for in but one county.

Sec. 14. When any ditch established under this act drains either in whole or in part any public road or railroad, or benefits any such road or railroad, so that the roadbed or travel or track of any such road will be made better by the construction of any such ditch, then the jury of viewers shall apportion to any such county if the same be a public road, or to such railroad if the same be a railroad, such portion of the costs and expenses thereof as herein provided for to private individuals.

Sec. 15. If any person shall wilfully obstruct any public ditch or shall wilfully divert the water from its proper channel, he shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than five nor more than five hundred dollars, and shall also be liable for any and all damages accruing to any person or persons or corporation or county for any such act.

Sec. 16. That in all reports made by any jury of viewers the same shall be sufficient if signed by a majority of said viewers.

Sec. 17. The said jury of viewers shall each receive the sum of three dollars per day as compensation for said work for each day so actually engaged. And said surveyor and engineer shall receive such compensation as shall be fixed by the commissioners court.

Sec. 18. That all assessments, sums and charges by the said viewers on order of court assessed against any land or lands shall be a lien thereon, and shall be collected as other assessments and taxes are collected under the general tax laws of this State. That any damages, if any, that the said jury of viewers or commissioners court assesses in favor of any

individual or corporation shall be paid out of the county treasury upon the order of the said court. And any sums assessed against any county on account of any public road shall be paid by the said county under an order of the commissioners court.

Sec. 19. Whereas, there is now no law upon the subject and an imperative public necessity exists that this bill should become a law and take effect at once; therefore, be it resolved, that the constitutional rule requiring bills to be read on three several days be suspended, and that this bill be placed on its third reading, become a law and take effect immediately after its passage, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 23d day of April, A. D. 1895, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

BANDERA COUNTY—CIVIL AND CRIMINAL JURISDICTION DIMINISHED.

CHAP. 98.—[H. B. No. 294.] An act to diminish the civil and criminal jurisdiction of the county court of Bandera county, to conform the jurisdiction of the district court thereto, and to repeal all laws in conflict herewith.

Section 1. Be it enacted by the Legislature of the State of Texas: That the county court of Bandera county shall have and exercise the general jurisdiction of a probate court, shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards, grant letters testamentary and of administration, settle accounts of executors, administrators and guardians, transact all business appertaining to the estates of deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the partition, settlements and distribution of estates of deceased persons, and to apprentice minors as provided by law, and to issue all writs necessary for the enforcement of its own jurisdiction, to punish contempt under such provisions as are or may be provided by general law governing county courts throughout the State, but the said county court of Bandera county shall have no other jurisdiction, civil or criminal, whatsoever.

Sec. 2. That the district court of Bandera county shall have and exercise jurisdiction in all civil and criminal matters and causes over which, by the laws of this State, the county court of said county would have jurisdiction, except as provided in section 1 of this act; all causes other than probate matters, and such as are provided by section 1 of this act, be and the same are hereby transferred to the district court of Bandera county, and all writs and processes relating to any civil or criminal matters not included in the subject matters of jurisdiction prescribed in section 1 of this act, issued by or out of said county court of Bandera county, be and the same are hereby made returnable to the next term of the district court of said county after this act takes effect.

Sec. 3. That the county clerk of Bandera county be and he is hereby

required, within thirty days after this act takes effect, to make a full and complete transcript of all entries upon his civil and criminal docket heretofore made in cases which, by section 2 of this act, are required to be transferred to the district court of said county, together with all the papers to such causes pertaining, and a certified bill of costs in each case, and all such causes shall be immediately docketed by said district clerk; and such civil cases so transferred shall stand on the docket of said court as appearance cases for the next succeeding term, and all criminal cases shall be docketed and disposed of in the same manner as if the same had been originally triable in said district court, and all process now issued and returnable to said county court shall be returnable to said district court.

Sec. 4. That this act shall not be construed to in any manner affect judgments heretofore rendered by said county court of Banderita county pertaining to matters and causes which, by section 2 of this act, are transferred to the district court of said county, but the county clerk of said county shall issue all executions and orders of sale, and proceedings thereunder shall be as valid and binding, to all intents and purposes, as though the change had not been made as by section 2 therein contemplated.

Sec. 5. That all laws and parts of laws in conflict herewith be and the same are hereby repealed.

Sec. 6. Owing to the great inconvenience caused the people of Banderita county, and the almost unanimous demand by the citizens of said county that said jurisdiction be diminished, an emergency is created and an imperative public necessity requires the suspension of the constitutional rule requiring bills to be read on three several days in each house; said rule is therefore suspended, and this act shall take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 12th day of April, A. D. 1895, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

MAKING PROVISION FOR THE RECORD OF CERTIFIED COPIES OF DEEDS AND OTHER INSTRUMENTS.

CHAP. 99.—[H. B. No. 56.] An act to amend article 4334 of Revised Statutes of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas: That article 4334, title 86, chapter 3, of the Revised Statutes of Texas be so amended as to hereafter read as follows:

Article 4334. Every conveyance, covenant, agreement, deed, deed of trust or mortgage in this chapter mentioned, or certified copies of any such original conveyance, covenant, agreement, deed, deed of trust or mortgage copied from the deed or mortgage records of any county in

this State where the same has been regularly recorded, although the land mentioned may not have been situated in the county where such instrument was recorded, and which shall have been acknowledged, proved or certified according to law, may be recorded in the county where the land lies, and when delivered to the clerk of the proper court to be recorded shall take effect and be valid as to all subsequent purchasers for a valuable consideration without notice, and as to all creditors from the time when such instrument shall have been so acknowledged, proved or certified and delivered to such clerk to be recorded, and from that time only: Provided, however, that all certified copies filed and recorded under the provisions of this act shall take effect and be in force from the time such certified copy was filed for record: And provided further, that nothing in this act shall be construed to make valid any instrument which was at the time of its execution from any cause invalid.

Sec. 2. The fact that there are many deeds conveying land in this State which have been recorded in counties other than the county in which the lands are situated, which record is not now authorized by law, and the record thereof being invalid, and not notice to subsequent purchasers for value, creates an emergency and an imperative public necessity authorizing the suspension of the constitutional rule requiring bills to be read on three several days, and it is so suspended, and demanding that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 23rd day of April, A. D. 1895, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

FISH AND GAME.

CHAP. 100.—[H. B. No. 63.] An act to amend an act passed by the Twenty-third Legislature of Texas, approved March 29, 1893, entitled "An act to amend an act passed by the Twentieth Legislature, approved April 2, 1887, entitled an act to amend article 430 of section 1, and to repeal section 2 of an act entitled an act to amend articles 423, 425, 426, 427, 428, 429, 430a, and to create article 426½, and to repeal article 430, chapter 5, title 13, of the Penal Code of the Revised Statutes for the protection of fish and game," approved March 15, 1881.

Section 1. Be it enacted by the Legislature of the State of Texas: That article 430 of section 1 of an act entitled "An act to amend articles 423, 424, 425, 426, 427, 428, 429 and 430a, and to create article 426½, and to repeal article 430, of chapter 5, title 13, of the Penal Code of the Revised Statutes, for the protection of fish and game," approved March 15, 1881, be so amended as to read as follows:

Article 430. That the following counties are hereby exempted from the provisions of articles 426, 426½, 427, 428 and 429 of this chapter, to-wit: Cherokee, Shelby, Franklin, Rockwall, Hopkins, Williamson, Coryell, Mills, Comanche, Runnels, Cooke, Wise, Madison, Clay, Jack and the

unorganized counties attached to the same for judicial purposes, Stephens, Polk, Throckmorton, Callahan, Taylor, Jones, Kent, Garza, Lynn, Terry, Yoakum, Trinity, Archer, Lamar, Cass, San Jacinto, Camp, Dimmit, Jackson, Kaufman: Provided, the exemption from the operation of this law shall not apply to article 425: And provided, that the counties of Angelina and Sabine are hereby exempted from articles 426½, 427, 428 and 429: And provided, that the counties of Walker, Trinity, Panola, Jack and Young are hereby exempted from articles 425, 426, 426½, 427, 428 and 429 of this act: And provided, that the counties of Fannin, Delta and Hopkins are hereby exempted from the provisions of articles 426 and 426½: And provided, that the county of Lee is exempted from the provisions of articles 426 and 429: And provided, that the counties of Bastrop, Brazos, Wilson, Freestone, Lampasas and Brazoria are hereby exempted from the provisions of article 429: And provided, that the counties of Gonzales, Palo Pinto, Eastland and Morris are hereby exempted from the provisions of articles 426, 426½, 427 and 428: And provided, that the counties of Nacogdoches, Hill and Rusk are hereby exempted from the provisions of articles 427, 428 and 429: Provided, further, that the counties of Franklin, Palo Pinto, Cass and Williamson shall be exempted from the provisions of article 423, and the counties of Tyler, Leon and Anderson shall be exempted from the provisions of article 426: Provided further, that the county of Burnet is hereby exempted from the game and fish laws of this State: Provided, that the counties of Karnes and Atascosa shall be exempted from the provisions of articles 423, 424, 426, 426½ and 429: Provided, that the counties of Camp and Hill shall be exempt from articles 423 and 424: Provided, that the counties of Shelby, Wise and Montague shall be exempt from the provisions of article 424: Provided, that the county of Bell is hereby exempted from the provisions of this article; Provided, that the counties of Wood and Rains are hereby exempted from articles 423, 426, 426½, 427, 428 and 429 of this chapter: Provided, San Augustine county shall be exempt from the provisions of articles 423, 424, 425, 425a, 426½, 427, 428, 429, 430a, 430d and 430e.

Sec. 2. The fact that the time wherein the killing of the larger game permitted under this law is now far advanced, an imperative public necessity exists that the constitutional rule requiring bills to be read on three several days in each house of the Legislature be suspended, and that this act take effect and be in force from and after its passage, and is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 24th day of April, A. D. 1895, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

JOHNSON GRASS OR RUSSIAN THISTLES.

CHAP. 101.—[H. B. No. 173.] An act to make it a penal offense for any person in this State to unlawfully sow, scatter or place on land not his own the seed or roots of Johnson grass, or Russian thistles, or wilfully and knowingly sell or give away hay, straw, oats or grain containing or intermixed with the seeds or roots of Johnson grass.

Section 1. Be it enacted by the Legislature of the State of Texas: That if any person in this State shall knowingly, wilfully and with intent to injure, sow, scatter or place on any land not his own the seed or roots of Johnson grass or Russian thistle, or wilfully and knowingly sell or give away any oats, hay, straw, seed or grain containing or intermixed with the seeds or roots of Johnson grass to any one who is ignorant of the fact that such seeds or roots are so contained in or intermixed with such oats, hay, straw, seed or grain, he shall be deemed guilty of a misdemeanor, and on conviction thereof he shall be punished by fine of not less than twenty-five dollars and not more than one thousand dollars.

Sec. 2. In prosecutions under the preceding article it shall not be necessary for the indictment to allege the name of the owner of the land, nor shall it be necessary for the State to prove the name of such owner, but it shall be sufficient to allege and prove that the land was not the property of the person accused.

Sec. 3. The near approach of the close of this session of the Legislature, and the crowded condition of the calendar, and the fact that it is improbable that this bill can be read on three several days, create an emergency and imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 29th day of April, A. D. 1895, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

PUBLIC ROADS—LIMITING AGE OF PERSONS SUBJECT TO DUTY.

CHAP. 102.—[H. B. No. 662.] An act to limit the age at which persons shall be required to work upon the public roads of this State, or upon the streets and alleys of cities and towns of this State.

Section 1. Be it enacted by the Legislature of the State of Texas: That no person in this State under the age of twenty-one years, or over the age of forty-five years, shall be required to work upon the public roads of this State, or upon the streets and alleys of any city or town of this State.

Section 2. All laws and parts of laws in conflict with the provisions of this act are hereby repealed.

Sec. 3. The near approach of the close of the present session of the

Legislature, and the crowded condition of the calendar, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and the same is hereby suspended.

[NOTE.—The foregoing act was presented to the Governor of Texas for his approval on the 27th day of April, A. D. 1895, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

MALICIOUS MISCHIEF.

CHAP. 103.—[S. B. No. 42.] An act to amend articles 683b of the Penal Code of the State of Texas, as enacted by the Legislature of said State, by an act entitled "An act to amend articles 683, chapter 3, title 17, of the Penal Code of the State of Texas, relating to malicious mischief, and providing a penalty therefor by adding thereto article 683b," approved March 22, 1889, and amendatory of said recited act, and to define and punish the offense of wilfully or maliciously throwing missiles or firing guns or other fire arms at or into moving trains on railroads or any railway depot, private residence, school house, church house, court house, store house, hotel or other public or private building, sailboat or steamboat in this State.

Article 683b. That any person who shall wilfully or maliciously throw a stone or other missile, or fire any gun or pistol at, against, or into any engine, tender, coach, passenger car, whether moving or not, or any other car of any moving train on any railway, or any railway depot, private residence, school house, church house, court house, store house, hotel or other public or private building, sailboat or steamboat in this State shall be deemed guilty of a misdemeanor, and on conviction therefor shall be fined in any sum not less than five dollars nor more than one thousand dollars, or be confined in the county jail for any term of not less than ten days nor more than two years; during such term such convict may be put to hard labor.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 27th day of April, A. D. 1895, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

LANDS—MONEYS REFUNDED—WHEN.

CHAP. 104.—[H. B. No. 358.] An act to amend chapter CXI of the General Laws of the Eighteenth Legislature of the State of Texas, approved 14 April, 1883, and entitled "An act authorizing the refunding from the State Treasury from deposits made to special funds to parties who may have paid the same in error, and who may have received no consideration therefor."

Whereas, it appears that sundry payments have been made into the State treasury for State revenue and special funds on public domain and other classes of lands for taxes, lease and purchase money, for which, because of conflict, erroneous surveys, illegal sales and other causes, patents can not issue, or have been issued and cancelled, and the party whose money has been so deposited can not receive proper consideration for such payments, and will lose their moneys; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas: That section 1 of said act be so amended as to hereafter read as follows: "That upon proper proof being made to the Comptroller that money has been in good faith paid into the State treasury upon lands for taxes, lease and purchase money, for which, on account of conflicts, erroneous surveys, or illegal sales, patents can not legally issue, or upon lands which patents have issued and have been or may hereafter be legally cancelled, the Comptroller is hereby authorized to issue his warrant for the amount so paid into the treasury in favor of the parties who have in good faith paid such money for which they receive no consideration: Provided, that this act shall not apply to surveys the errors in which may be corrected: And provided further, that whenever the official records of the General Land Office shall show that patents for such lands can not legally issue upon such surveys, on account of conflicts, erroneous or illegal sales, or that patents issued on such lands have been legally cancelled, it shall be the duty of the Commissioner to issue his certificate to that effect, which certificate filed with the Comptroller shall be sufficient proof to authorize him to act under the provisions hereof."

Sec. 2. The crowded condition of the calendar and the near approach of the close of the present session of the Legislature creates an emergency, and an imperative public necessity demands that the constitutional rule which requires bills to be read on three several days be suspended, and it is so suspended.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 20th day of April, A. D. 1895, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

PUBLIC SCHOOLS—DISTRICTS LYING IN TWO OR MORE COUNTIES.

CHAP. 105.—[H. B. No. 225.] An act to provide for the organization and control of school districts lying partly within two or more counties, and school communities composed of persons living within two or more counties.

Section 1. Be it enacted by the Legislature of the State of Texas: That whenever the people living near a county line desire to organize a school district lying partly within two or more counties, a petition setting forth the boundaries of the proposed district, signed by a majority of the qualified voters within said boundaries and approved by the county superintendent (or ex officio county superintendent) of public instruction of each county in which any part of the proposed district lies, shall be presented to the commissioners court of any of one of said counties, and said commissioners court shall have authority to establish such school district according to said petition.

Sec. 2. When such school district is so established it shall be regarded and treated in all respects as a district of the county by whose commissioners court it is established: Provided, that the children of scholastic age living in each county shall be reported separately to the proper county authorities and apportionments for such pupils shall be made by the several counties as to other children of the same counties, but the funds apportioned to such children shall all be transferred during each school year to the county whose commissioners court established the district: And provided, further, that when any such school district authorizes the levy of a local school tax by vote of tax payers the returns of the election shall be made to the commissioners court of the county establishing the district, and when the result of the election is declared the county clerk shall transmit to the commissioners court of each of the other counties interested notice of the result and of the rate of tax, if any, authorized. And the commissioners court of each county shall levy, the assessor shall assess, and the collector shall collect the tax separately for the portions of the district in their respective counties, but the funds so derived shall all be transferred to the county whose commissioners court established the district.

Sec. 3. County line communities may also be organized, including the residents of two or more community counties residing within three miles of the county line, upon petition to the county superintendent of public instruction of either county, in which case all the funds prorated to the children belonging to such community shall be transferred to the county whose county superintendent establishes the community.

Sec. 4. The near approach of the end of the session and the demand for immediate legislation on this subject constitute an imperative public necessity that the constitutional rule requiring bills to be read in each house of the Legislature on three several days be suspended, and that this act take effect from and after its passage, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 27th day of April, A. D. 1895, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

INSANE CONVICTS.

CHAP. 106.—[H. B. No. 140.] An act to amend article 101a of the Revised Civil Statutes of the State of Texas, relative to insane convicts.

Section 1. Be it enacted by the Legislature of the State of Texas: That article 101a of the Revised Civil Statutes of the State of Texas shall hereafter read as follows:

Article 101a. When a convict shall be discharged from one of the State penitentiaries, and is insane at the time of his discharge, and it shall be adjudged by a court of competent jurisdiction within thirty days after his discharge that said convict is insane and that he should be placed under restraint, he shall be delivered to the superintendent of the penitentiaries, or to one of the assistant superintendents of the penitentiary, to be conveyed to one of the lunatic asylums of this State by said superintendent or under his direction; and the expenses incurred in said adjudication and in keeping and conveying such patient to the asylum, including such clothing as shall be necessary for his comfort, shall be paid by the State upon the certificate of the superintendent of the penitentiary.

[Note.—The foregoing act was presented to the Governor of Texas on the 30th day of April, A. D. 1895, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

COUNTIES AND CITIES—BRIDGES.

CHAP. 107.—[H. B. No. 661.] An act authorizing counties and cities to erect bridges in incorporated cities, or to co-operate with cities in the erection thereof.

Section 1. Be it enacted by the Legislature of the State of Texas: That whenever the commissioners court of any county shall deem it to the interest of the county to erect any bridge or bridges within the corporate limits of any city or town, said court may make contracts therefor, and erect said bridges to the same extent and under the same conditions now prescribed by law for the construction of bridges outside of the limits of any city or town.

Sec. 2. If said commissioners court and the city council of any city or town desire to co-operate in the erection of a bridge within the corporate limits of any city or town, they may jointly erect such bridge upon such terms and conditions as may be mutually agreed upon; and either or both of the city and county may issue its bonds to pay for its proportional part of the debt: Provided, that no such contract shall be made or entered into or bonds issued under the provisions of this act unless a proposition therefor shall be submitted to the property tax paying voters of the county at an election to be held by virtue of an order of the commissioners court for the purpose, and a majority of such voters shall vote at such election

in favor of such proposition; and the same laws governing other elections shall govern said election, canvass and return, and the county judge of said county shall declare by proclamation the result thereof by publication in some newspaper in said county.

Sec. 3. And for the purposes herein mentioned, counties in this State may execute and issue its bonds, in the manner, under the conditions and to the same extent as they are now or may be hereafter authorized to issue for the erection of bridges outside of the corporate limits of cities and towns.

Sec. 4. The fact that there is no adequate law authorizing cities and counties to erect and build bridges within the corporate limits of any city creates an emergency, and an imperative public necessity exists that the constitutional rule requiring bills to be read on three several days be suspended and this act take effect from and after its passage, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 20th day of April, A. D. 1895, but was not signed by him nor returned to the house in which it originated, with his objections thereto, within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

FUNDING INDEBTEDNESS OF COUNTIES.

CHAP. 108.—[S. B. No. 184.] An act to amend section 1, chapter 106, Acts of the Twenty-second Legislature, as approved 13th day of April, 1891, entitled "An act to amend section 1 of chapter 79, of an act passed at the regular session of the Twenty-first Legislature," approved April 4, 1889, entitled an act to authorize counties to fund their indebtedness and to provide means to pay same.

Section 1. Be it enacted by the Legislature of the State of Texas: That section 1 of chapter 106 of the acts of 1891, approved the 13th day of April, 1891, be so amended as to hereafter read as follows:

Section 1. That the county commissioners court of any county in this State is hereby authorized and empowered to compromise, compound, refund, settle with and to fund any existing indebtedness lawfully made and undertaken by such county by authority of law created prior to January 1, 1895, and for this purpose the said commissioners courts are hereby authorized and empowered to issue bonds in denomination of not less than five hundred dollars, with interest coupons, payable annually; said bonds to become due and payable in twenty years from date of their issuance: Provided, that said bonds may be paid off at any time after two years from their date of issuance if the commissioners court should so elect: And provided further, that such bonds shall not be sold for less than their face or par value; said bonds to bear interest not exceeding six per cent per annum; and the said commissioners court are further authorized and empowered to levy a tax upon all real and personal property situated in the county, not to exceed twenty-five cents on the hundred dollars on the assessed value of such property in any one year, to

pay the annual interest, and not less than two per cent annually of the principal of said bonds, besides the expenses of assessing and collecting the same, and no bonds shall be issued under this act until a levy as herein provided shall have been made, and when such levy shall have been made the same shall continue in force until the whole amount of the principal and interest shall have been fully paid: Provided, that nothing herein shall be construed to authorize any county to levy any tax in excess of that authorized by the Constitution and laws now in force: Provided further, that it shall not authorize the taking up of bonds heretofore issued and issuing new bonds in lieu thereof unless such new bonds shall bear a less rate of interest than the bonds taken up.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 30th day of April, A. D. 1895, but was not signed by him not returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

AUTHORIZING CITIES AND TOWNS TO ABOLISH THEIR CORPORATE EXISTENCE.

CHAP. 109.—[H. B. No. 171.] An act to authorize cities and towns incorporated under the general laws of the State, and cities and towns of ten thousand inhabitants or less chartered under special law, including those which may have heretofore accepted the provisions of title 17, chapter 1, of the Revised Civil Statutes of the State of Texas in lieu of an existing charter, to abolish their corporate existence; to provide for the disposition of corporate property, the assessment and collection of taxes to pay existing indebtedness and the control of the public schools therein.

Section 1. Be it enacted by the Legislature of the State of Texas: That cities and towns incorporated under the general laws of the State, and cities and towns of ten thousand inhabitants or less chartered under special law, including those which may have heretofore accepted the provisions of title 17, chapter 1, of the Revised Civil Statutes of the State, may abolish their corporate existence in the manner hereinafter provided.

Sec. 2. When one hundred of the property tax payers who are qualified voters of any such city or town shall desire the abolishment of such corporation, they may petition the county judge to that effect, who shall thereupon order an election to be held in such city or town as in the case of its incorporation.

Sec. 3. All persons who are legally qualified voters of the State and county in which any such election is ordered, and are resident property tax payers in the city or town where such election is to be held, as shown by the last assessment roll of such city or town, shall be entitled to vote at such election; and if a majority of such qualified voters voting at such election shall vote to abolish such corporation, the county judge shall declare such corporation abolished, and enter an order to that effect upon the minutes of the commissioners court, and from the date of such order said corporation shall cease to exist.

Sec. 4. When any corporation is abolished as provided in the preceding sections, all the property belonging thereto shall be turned over to the county treasurer, and the commissioners court of the county shall provide for the sale and disposition of the same, except the property pertaining to the public free schools or devoted exclusively to public use; the commissioners shall also provide for the settlement of the debts due by the corporation, and for this purpose shall have the power to levy and collect a tax from the inhabitants of such city or town in the same manner as the said corporation would be entitled to do under its charter or the laws of the State; and any surplus remaining in the hands of the county treasurer after the payment of the debts of said corporation shall be paid to the trustees of the public free schools situated in said city or town, for the benefit of such schools.

Sec. 5. Where the public free schools of any such city or town are under the management of trustees appointed or elected by the voters of the city or town, or by the city or town council, at the time its corporation is abolished under the provisions of this act, such trustees shall constitute the management of said schools for the remainder of the term for which they were appointed or elected, subject to the supervision of the commissioners court, unless such city or town shall sooner become incorporated for school purposes only.

Sec. 6. All taxes for municipal or school purposes which have been levied at the date of abolishment of such corporation, and which have not been paid, shall be collected by the collector of the county in the same manner provided by law for the collection of State and county taxes, and paid into the county treasury; but the portion of such taxes levied for the purpose of maintaining the public free schools of such city or town shall be paid over to the trustees of public free schools of said city or town and applied by them to the purposes for which they were levied.

Sec. 7. When any corporation is abolished under the provisions of this act, and shall at the time of such abolishment own any public buildings, public parks, public works or other property, and the same shall not have been sold or disposed of as provided in this act, the same shall be managed and controlled by the commissioners court of such county for the purposes to which same were originally used and intended, and for this purpose the commissioners court shall have and exercise, with reference thereto, the powers originally conferred by charter upon the mayor and aldermen of such city.

Sec. 8. The fact that there exists no law for the abolishment of the corporation of cities and towns incorporated under chapter 1, title 17, of the Revised Statutes, and the further fact that many cities and towns of the State desire to incorporate for school purposes only and provide means to aid the public free schools within their limits, but are prevented from doing so by existing laws, and the burthens of maintaining a useless municipal government, create an imperative public necessity requiring the suspension of the constitutional rule requiring bills to be read on three several days be suspended and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 27th day of April, A. D. 1895, but was not

signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

REAL ESTATE EXECUTION SALES—MODE AND MANNER OF ADVERTISING.

CHAP. 110.—[S. S. B. No. 23.] An act to amend section 1, chapter 15, of the general laws of the State of Texas, passed at the regular session of the Twenty-third Legislature, and fix the time and place of making sales of real estate under execution, order of sale or venditioni exponas, and to prescribe the mode and manner of advertising such sales.

Section 1. Be it enacted by the Legislature of the State of Texas: That section 1, chapter 15, of the general laws of the State of Texas, passed at the regular session of the Twenty-third Legislature, be and the same is hereby amended so that the same shall hereafter read as follows: That article 2309 of the Revised Statutes of the State of Texas shall hereafter read as follows:

Article 2309. The time and place of making sale of real estate in execution shall be publicly advertised by the officer for at least twenty days successively next before the day of sale, by posting up written or printed notices thereof at three public places in the county, one of which shall be at the door of the court house of the county, and by delivering to the defendant in execution one copy of said notice of sale, whenever he resides in the county where the land is situated, and shall mail a similar notice to the attorney of record, if any, for such defendant in every case; and if such defendant resides out of the county where the land is situated, the officer shall mail to him a similar notice, directed to him at his postoffice, if known to such officer, and if his residence is not known and he has no attorney of record, the posting of the first three notices shall be sufficient: Provided, that whenever real property shall be levied on by virtue of an execution, or shall be the subject of any order of sale or venditioni exponas, if the defendant shall at any time prior to and not later than five days after receiving notice of the levy of any execution or issuance of order of sale or venditioni exponas, request the clerk or justice of the peace issuing such execution, order of sale or venditioni exponas, or the officer making the levy or holding the process, that notice of the sale be published in a newspaper, the same shall be so published, if there be a newspaper published in the county that will publish the same for the compensation allowed herein; when said request is filed the officer shall, under the provisions of this act, publish notice of the sale in a newspaper published in the county for three consecutive weeks. Said notice shall contain a statement of the authority by virtue of which the sale is to be made, the time of levy, and the time and place of sale; it shall also contain a brief description of the property to be sold, and shall give the number of acres, original survey, locality in the county, and the name by which the land is most generally known, but it shall not be necessary for it to contain field notes. Publishers of newspapers

shall receive for publishing said sales fifty cents per square for the first insertion and thirty cents per square for subsequent insertions, to be taxed and paid as other costs; in such publications ten lines shall constitute a square, and the body of no such advertisements shall be printed in larger type than brevier: Provided, that on request of any defendant against whom judgment is rendered the clerk or justice of the peace shall note on the margin of the judgment record, "to be advertised by publication," and he shall note this fact on the execution, order of sale or venditioni exponas issued on such judgment, and notice of the sale of any real estate levied upon by virtue of such writ shall then be advertised in a newspaper as herein directed.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 23rd day of April, A. D. 1895, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

UNIVERSITY OF TEXAS.

CHAP. 111.—[S. B. No. 137.] An act to amend sections 5 and 8 and to repeal section 9 of an act approved March 30, 1881, entitled "An act to establish the University of Texas."

Section 1. Be it enacted by the Legislature of the State of Texas: That sections 5 and 8 of an act approved March 30, 1881, entitled "An act to establish the University of Texas," shall be so amended as to hereafter read as follows:

Section 5. The government of the University shall be vested in a board of eight regents, selected from different portions of the State, who shall be nominated by the Governor and appointed by and with the advice and consent of the Senate. The members of the board of regents heretofore appointed shall continue to exercise their duties until the expiration of their respective terms.

Section 8. The regents shall elect a chairman of the board of regents from their own number, who shall hold his office during the pleasure of the board. They shall establish the departments of a first class university, determine the offices and professorships, appoint a president, who shall, if they think it advisable, also discharge the duties of a professor, appoint the professors and other officers, fix their respective salaries, and they shall enact such by-laws, rules and regulations as may be necessary for the successful management and government of the University: they shall have power to regulate the course of instruction and prescribe, by and with the advice of the professors, the books and authorities used in the several departments, and to confer such degrees and to grant such diplomas as are usually conferred and granted by universities.

Sec. 2. Section 9 of said act is hereby repealed.

Sec. 3. The crowded condition of the legislative calendar, and the fact that there is a demand for a more efficient management of the University,

creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect from and after its passage, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 23rd day of April, A. D. 1895, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

FISH AND OYSTER COMMISSIONER.

CHAP. 112.—[H. B. No. 55.] An act creating the office of Fish and Oyster Commissioner, and defining his duties, and for the protection of the fish, turtle and terrapin of the bays and coast waters of the State, and to protect natural oyster beds and reefs, and to provide for the location of private beds, and providing adequate penalties therefor.

Section 1. Be it enacted by the Legislature of the State of Texas: That the office of Fish and Oyster Commissioner is hereby created, and the Governor is hereby authorized to appoint a competent person as Fish and Oyster Commissioner for the State of Texas, who shall be qualified under section 2 of this act to fill said office.

Sec. 2. The person appointed to the office of Fish and Oyster Commissioner shall be a citizen of the United States and a resident and tax payer of this State. He must be familiar with the habits of fish and oysters and have some knowledge of navigation.

Sec. 3. The Fish and Oyster Commissioner shall reside in some town or city on the coast of Texas during his term of office, which shall be for two years.

Sec. 4. The Fish and Oyster Commissioner shall file with the Secretary of State a good and sufficient bond, to be approved by the Secretary of State, in the sum of ten thousand dollars, with two or more good and sufficient sureties, conditioned that he will faithfully perform the duties of his office, and he will take the oath prescribed for sheriffs, and when he shall have filed said bond and taken said oath he shall enter upon the duties of said office. Said bond shall not be void on the first recovery, but may be sued on from time to time in the name of the State or any person injured until the whole amount has been recovered.

Sec. 5. The said Commissioner shall have a seal, a star with five points, with the words, "Fish and Oyster Commissioner of Texas."

Sec. 6. The duties of the Commissioner are the execution of the fish and oyster laws of this State; in the execution of these laws he shall have and exercise the power given to sheriffs by the laws of this State.

Sec. 7. It shall be the duty of the Commissioner to inspect all fish, green turtle, terrapin and oysters that are caught for sale or shipment.

Sec. 8. The Commissioner shall keep a record book, which shall be well bound, and in it he shall record:

1. All applications for private oyster beds, and date of filing same.

2. When and how such applications were executed, whether the examinations were made by tongs, dredges, or otherwise.

3. Whether such applications were allowed or disallowed; if allowed, an accurate description of same; if disallowed, the reason for refusal.

4. All applications for seine or set net licenses; if granted, the number and length of such seine or nets; if not granted, the reason for refusal.

5. All applications for tong licenses; if granted, the number; if not granted, the reason for refusal.

6. All amounts received for fees and licenses, from whom received, and what disposition was made of such amounts.

7. All amounts of all fines collected, for what purposes collected, and what disposition was made of such amounts.

8. These records shall be public records and admitted as evidence, as prescribed in article 2552, Revised Civil Statutes of Texas.

Sec. 9. The Commissioner shall make, upon the 30th day of June of each year, a report to the Governor of the fish and oyster trade of the Texas coast. It shall contain:

1. The name and class of all boats engaged in the oyster and fish trade.

2. The number, acreage, and place of location of all private oyster beds.

3. The number of seine and set net licenses issued during the year.

4. The number of tong licenses issued during the year.

5. The amount of all fees received, and for what service.

6. The amounts of all fines collected during the year.

7. Observations and remarks.

The Fish and Oyster Commissioner shall have until October 1st to make such report, and failing to make such report within the time specified he shall be deemed guilty of contempt, and may be punished by a fine of not less than twenty-five dollars nor more than two hundred and fifty dollars, or dismissed from office, or both such fine and dismissal, at the discretion of the court having jurisdiction.

Sec. 10. The Fish and Oyster Commissioner shall for his services be allowed all fees for locating private oyster beds, all fees collected for licenses for seines, set nets, and tongs. He shall be allowed out of the fish and oyster fund of the State twenty dollars for seal and record book, and said seal and record book shall be the property of the State: Provided, that the Commissioner shall not in any event receive for his services a sum in excess of eighteen hundred dollars per annum; and the deputy fish and oyster commissioners shall receive for their services a sum not to exceed six hundred dollars per annum, to be paid out of the revenues for their counties, and any excess of that amount shall be paid over to the State fish and oyster fund, as provided in section 11 of this act: Provided, further, that the State shall not be liable in any sum for the services of such Commissioner or any of his deputies.

Sec. 11. All the money derived by the State from fines for infraction of the fish and oyster laws, fees for licenses, and taxes on private oyster beds, shall be kept by the Comptroller separate under the head of "Fish and Oyster Fund."

Sec. 12. All moneys derived by counties from fines for infraction of the fish and oyster laws, fees, taxes, etc., shall go to the general fund of the county.

Sec. 13. Of all fines collected for infraction of the fish and oyster laws ten per cent shall go to the prosecuting attorney, and one-fourth shall go to the informer, and one-half of the residue shall go to the fish and oyster fund of the State, and the other half of the residue shall go to the county in which the case was tried.

Sec. 14. Out of the fees collected for licenses issued for seines, set nets, and tongs, the Fish and Oyster Commissioner and his deputies shall be paid the amounts allowed them under section 10 of this act, and the balance shall be divided equally, one-half to be paid into the State fish and oyster fund, as provided in section 11 of this act, and the other half to be paid into the general fund of the county in which such licenses were issued.

Sec. 15. The Commissioner is authorized to appoint one or more deputy commissioners for each coast county in the State. Such deputy or deputies shall have and exercise the same powers and duties as the Fish and Oyster Commissioner.

Sec. 16. Such deputy shall make a report by August first of each year of his official acts for the year ending June 30 prior to each report, which shall set forth and in detail such facts as are provided in section 9 of this act.

Sec. 17. Each deputy fish and oyster commissioner shall exercise the duties of his office in and for the county from which he was appointed.

Sec. 18. Before entering upon the duties of his office, each deputy fish and oyster commissioner shall file with the Fish and Oyster Commissioner a good and sufficient bond, with two or more sureties, in the sum of one thousand dollars, and take the same oath of office as the Fish and Oyster Commissioner, and said bond and oath shall be governed by the provisions of section 4 of this act.

Sec. 19. No person shall hold the office of deputy commissioner who is not a citizen of the United States and a resident and tax payer of the State and county in which he holds his office, and he shall hold his office at the pleasure of the Fish and Oyster Commissioner.

Sec. 20. In making arrests, summoning witnesses and serving processes, the Commissioner or his deputy shall be allowed the same fees and mileage as sheriffs, the same being charged as costs and collected the same as are sheriff's costs and fees.

Sec. 21. The Commissioner shall be responsible, on his bond, for the official acts of his deputies.

Sec. 22. It shall be unlawful for any person to catch fish, green turtle or terrapin in the bays or coast waters of this State by drag seines or set nets, except as provided for in this act.

Sec. 23. The catching of fish, green turtle and terrapin in said waters by poison, dynamite, nitro glycerine, giant powder or other explosives is hereby prohibited. Any person so offending shall upon conviction be fined not less than twenty-five dollars nor more than five hundred dollars, and each day shall constitute a separate offense.

Sec. 24. Any person wishing to engage in the business of fishing or catching green turtle or terrapin must make application in writing to the Fish and Oyster Commissioner or his deputy for a license, stating under oath that he is a citizen of the United States and a resident and tax payer of the State of Texas, and stating also the name and class of his boat, the number and length and class of nets to be used, and he shall receive a

license authorizing such person to engage in such business. Such license must be signed by the Fish and Oyster Commissioner or his deputy, and must be stamped with the seal of his office, and it shall state:

1. The name of applicant, and his place of residence.
2. The name, class and place of registry of his boat.
3. The number, length and class of nets to be used.
4. The date of issuance of such license.

Such license shall be good for all the purposes of this act for six months from the day of issuance of same, and for such license the applicant shall pay to the Fish and Oyster Commissioner or his deputy the sum of five cents per fathom for every fathom of drag seine, and two and one-half cents per fathom for every fathom of set nets, and the float line shall be deemed the length of such drag seine or set net; and it shall be the duty of the Fish and Oyster Commissioner or his deputy to measure such seine or nets, and attach securely to each one a metal tag with the letters "F. & O. C." stamped thereon.

Sec. 25. Any person shall be entitled to hold a license to catch fish, green turtle or terrapin, for sale or market, who is a citizen of the United States and a resident and tax payer of the State. Any one offending against this section shall, upon conviction, be fined not less than twenty-five dollars nor more than five hundred dollars.

Sec. 26. It shall be unlawful for any person to sell or ship any red-fish of more than twelve pounds in weight, or less than one and one-half pounds in weight, any trout of less than one pound in weight, or any sheephead of less than one pound in weight. Any person offending against this section shall, upon conviction, be fined in any sum not less than ten dollars nor more than two hundred and fifty dollars.

Sec. 27. It shall be unlawful for any person to sell or ship any green turtle of less than twelve pounds in weight, or terrapin of less than six inches in length of under shell; or to catch or sell any terrapin from the first day of May to the first day of August. Any person offending against this section shall, upon conviction, be fined in any sum not less than ten dollars nor more than two hundred and fifty dollars.

Sec. 28. It shall be unlawful for any person during the breeding season, consisting of the months intervening between April first and October first, to catch any fish, green turtle, or terrapin by drag seine or set net in these waters, which are hereby declared to be breeding grounds for fish, green turtle and terrapin, to-wit:

1. All that portion of water in Cameron and Nueces counties lying west of a line starting from Griffin's Point and running in a northerly direction to the northeast bank of Laguna Madre, and marked on the United States coast survey chart as Baffins Bay and Aqua Dulce.

2. All that portion of water in Nueces county lying north of the San Antonio and Aransas Pass railroad bridge, and marked on the United States coast survey chart as Nueces Bay.

3. All that portion of water in Aransas county north of a line starting from the town of Lamar and running south to the north end of Goose Island; thence in a southwesterly direction to the extreme south-east point of Live Oak Peninsula, and marked on the United States coast survey chart as Copano Bay, Puerto and Mission Bay.

4. All that portion of water in Aransas county marked on the United States coast survey chart as St. Charles Bay.

5. All that portion of water in Refugio and Calhoun counties marked on the United States coast survey chart as Hynes Bay.

6. All that portion of water in Calhoun county north of a line starting from Marsh Point and running due east to the east bank of San Antonio Bay, and marked on the United States coast survey chart as Mission Bay and San Antonio Bay.

7. All that portion of Lavaca Bay in Calhoun county north and west of a line starting from Gallinipper Point on the south bank of said bay, running in a northerly direction along Gallinipper Bar to Point Comfort, or sometimes called Mitchell's Point.

8. All that portion of water in Calhoun county marked on the United States coast survey chart as Carankaway Bay.

9. All that portion of water in Matagorda county north of a line starting from Well Point and running east to Palacious Bayou, and marked on the United States coast survey chart as Turtle Bay and Trespalacious Bay.

10. All that portion of water in Brazoria county north and east of Mud Island Pass, and marked on the United States coast survey chart as Bastrop Bay and Oyster Bay.

11. All that portion of water in Galveston county north of a line starting from Red Bluff on the west bank of Galveston Bay and running in an easterly direction to the first beacon south of Morgan's Point; thence in a northeasterly direction to Mesquite Point.

12. All that portion of water in Chambers county marked on the United States coast survey chart as Turtle Bay.

Any person offending against this section shall, upon conviction, be fined not less than twenty-five dollars nor more than two hundred and fifty dollars, and each day shall constitute a separate offense; and in all prosecutions under this section the identification of the boat from which such violation occur shall be *prima facie* evidence against the owner, lessee, person in charge or master of such boat.

Sec. 29. Any person dragging a seine on shore shall return all fish not wanted for market to the water while they are yet alive, except sharks, gars, rays, sawfish and catfish. And the size of the meshes of any seines used shall not be less than one and one-half inches square. Any person offending against this section shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than ten dollars nor more than two hundred and fifty dollars.

Sec. 30. The United States coast survey charts numbers 203, 204, 205, 206, 207, 208, 209, 210, 211 and 212, covering the coast of Texas, shall be evidence in all prosecutions under this act.

Sec. 31. Oyster beds shall be public and private. All those not designated as private shall be public. All natural oyster beds and oyster reefs in the navigable waters of the State shall be deemed public.

Sec. 32. It shall be unlawful for any person to take or catch oysters from any public beds or reefs for sale or planting from the thirtieth day of April to the first day of September of each year: Provided, that part of Laguna Madre west of Ballins Bay be exempted from the operation of this section. Any person offending against this section shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than ten dollars nor more than two hundred and fifty dollars, and each day shall constitute a separate offense.

Sec. 33. It shall be unlawful for any person to catch or take oysters from the public beds and reefs for sale who is not a bona fide citizen of the United States and a resident and tax payer of the State. Any person offending against this section shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than ten dollars nor more than two hundred and fifty dollars.

Sec. 34. It shall be unlawful for any person to gather oysters with tongs or otherwise from the public beds and reefs of the State for sale without a license from the Fish and Oyster Commissioner or his deputy for each and every pair of tongs that shall be used on his boat, and for such license he must pay to the Fish and Oyster Commissioner or his deputy the sum of five dollars for each pair of tongs, and any person shall be entitled to hold such license who is a citizen of the United States and a resident and tax payer of the State of Texas. Such license shall be good from day of issuance until April 30th next; such license shall be signed by the Fish and Oyster Commissioner or his deputy, and stamped with the seal of his office, and shall state the name of applicant and date of issuance: Provided, that any person holding such license in his own name may take or catch oysters from any boat. Any one offending against this section shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than ten dollars nor more than two hundred and fifty dollars, and each day shall constitute a separate offense.

Sec. 35. When oysters are gathered from the public beds they must be culled and the young oysters and dead shells must be returned to the original bed while the young ones are yet alive; and any person offending against this section shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than ten dollars nor more than two hundred and fifty dollars for each and every offense.

Sec. 36. Any person offering for sale or who shall sell any cargo of oysters which shall contain more than five per cent of young oysters shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than ten dollars nor more than two hundred and fifty dollars. Any oyster that measures $2\frac{1}{2}$ inches or less from hinge to mouth shall be deemed a young oyster for the purpose of this and the preceding section.

Sec. 37. It shall be the duty of the Fish and Oyster Commissioner or his legal deputy, when he thinks that any cargo of oysters offered for sale contain more than five per cent of young oysters, to take as many as he may deem necessary from such cargo, cull them, and measure the marketable oysters and then measure the young oysters, or those that measure less than $2\frac{1}{2}$ inches from hinge to mouth, and ascertain to the best of his ability the proportion of the young oysters to the marketable oysters, and if the young oysters be in greater proportion than five per cent, the cargo shall be deemed uncultured, and the owner shall be guilty of the offense prescribed in section 36 of this act.

Sec. 38. Any person who is a bona fide citizen of the United States and a resident and tax payer of the State of Texas, shall have the right of obtaining a location for planting oysters and making private oyster beds within the navigable waters of the State other than those mentioned in section 40 of this act, by making written application to the Fish and Oyster Commissioner or his deputy, describing the location desired. A fee of ten dollars in cash must accompany such application. It shall then be the duty of the Fish and Oyster Commissioner, or his deputy, to, as

soon as practicable, thoroughly examine the location described with tongs, dredge, or in other efficient manner, and if the same be not a natural oyster bed or reef, and not exempted from location by any section of this act, he shall mark off a space not exceeding fifty acres in area, by planting four buoys, one at each of the four corners, which buoys must not be less than twelve inches in diameter, and for which buoys and the labor of placing the same the locator must pay; and the locator must fasten securely to one or more of the buoys a notice of his location; and the Fish and Oyster Commissioner or his deputy, shall give to the locator a certificate signed by such Commissioner or his deputy, stamped with the seal of his office; such certificate shall show the date of application, date of survey, manner of marking, and a description by metes and bounds, with a reference to the points of the compass and natural or artificial objects by which the said location can be found and verified. At any time not exceeding sixty days after the date of such certificate of location, the locator must file the same with the county clerk of the county in which the location is situated, who shall record the same in a well-bound book kept for the purpose, and the original, with a certificate of registration, shall be returned to the owner or locator. The clerk shall receive for the recording of such certificate the same fees as for recording deeds. The original or certified copies of such certificate shall be admissible in evidence under the same rules governing the admission of deeds or certified copies thereof. Any person so locating, shall be protected in his possession thereof against trespass thereon, in like manner as freeholders are protected in their rights, so long as he complies with section 39 of this act.

Sec. 39. Any person who secures a location for a private oyster bed shall keep the corners marked by securely anchored buoys of not less than twelve inches in diameter; and he shall further pay to the State a tax of ten cents per acre for each year of the first five years he occupies such location and twenty-five cents per acre for each year after the first five years that he occupies such location; this tax shall be paid to the legal tax collector of the county in which the location is situated, and it shall be due on January first of each year, as other ad valorem taxes, and if not paid before March first of the same year the locator shall forfeit all rights to the location and the same shall revert to the State.

Sec. 40. When any creek, bayou, lake or cove shall be included within the metes and bounds of any original grant or location in this State, the lawful occupant of such grant or location shall have the exclusive right to use said creek, lake, bayou or cove for gathering, planting, or sowing oysters within the metes and bounds of the original grant or patent of said land. But if said creek, bayou, lake or cove is not included in the survey of said lands, then the exclusive right of the riparian owner shall extend to the middle of said creek, bayou, lake or cove: Provided, said creek, bayou, lake or cove be not more than two hundred yards in width, but if said creek, bayou, lake or cove be more than two hundred yards in width, then the riparian owner's right shall extend only one hundred yards from the shore. No person shall locate any water or ground covered with water for planting oysters along any bay shore in this State nearer than one hundred yards from the shore, which one hundred yards is declared to be the riparian right of the land owner for planting oysters. In determining such riparian right of any land owner the start-

ing point must be at high water mark or where the land survey ceases, and measure out into the bay one hundred yards: Provided, that should a natural oyster bed or reef be on this one hundred yards riparian reservation, the land owner shall have no exclusive right to the same.

Sec. 41. It shall be unlawful for any person to take oysters from a private bed or to take oysters deposited by one making up a cargo for market or family use without the consent or permission of the owner thereof, and any one offending any provisions of this section shall be deemed guilty of theft, and upon conviction shall be punished by fine of not less than fifty dollars nor more than two hundred and fifty dollars, or by confinement in the county jail of not less than twenty days nor more than twelve months, or by both such fine and such imprisonment.

Sec. 42. In gathering oysters for market from the public oyster beds or reefs it shall be unlawful for any person to use a rake or dredge. Any person offending against this section shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum of not less than five hundred dollars nor more than one thousand dollars.

Sec. 43. Any person who shall wilfully deface, injure, destroy or remove any buoy or any part thereof used to designate the corners or boundary of any private oyster bed, without the consent of the owner thereof, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than fifty dollars nor more than two hundred and fifty dollars.

Sec. 44. No person, firm, or corporation shall ever own, lease, or otherwise control more than six hundred and forty acres of land covered by water, the same being oyster location under this act, and within the navigable waters of this State, and any person, firm or corporation that now holds six hundred and forty acres of oyster location shall not be permitted hereafter to acquire, own, lease or otherwise control more: Provided, that no corporation shall own or lease or control any such lands covered by water unless such corporation shall be duly incorporated under the laws of this State.

Sec. 45. All laws or parts of laws in conflict with this act be and the same are hereby repealed.

Sec. 46. Whereas, the oyster and fish industries on the coast of the State of Texas have no adequate protection, and the near approach of the end of this session creates an emergency and imperative necessity that the constitutional rule requiring bills to be read on three several days be suspended, and this bill be put upon its third reading and final passage, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 26th day of April, A. D. 1895, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

UNLAWFUL BOARDING OR RIDING ON TRAINS.

CHAP. 113.—[S. B. No. 269.] An act to prevent persons from unlawfully boarding or riding upon any railway train unless he or she be in good faith a passenger thereon.

Section 1. Be it enacted by the Legislature of the State of Texas: Any person who shall board any passenger, freight or other railway train, whether moving or standing, for any purpose and without in good faith intending to become a passenger thereon, and with no lawful business thereon, and with intent to obtain a free ride on such train, however short the distance, without the consent of the person or persons in charge thereof, shall be guilty of a misdemeanor, and shall be punished by fine of not less than five dollars nor more than one hundred dollars.

Sec. 2. The near approach of the close of this session, the great press of bills, and the fact that there is no adequate law to protect property of railway companies from trespassers, and that such companies are being continually harrassed by such suits for damages, because of accidents happening to such persons trespassing on their trains, creates an emergency and imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 29th day of April, A. D. 1895, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

CITIES AND TOWNS—DISCONTINUING UNINHABITED TERRITORY.

CHAP. 114.—[H. B. No. 635.] An act to enable the mayor and city council of any town or city to discontinue uninhabited territory as a part of any city or town.

Section 1. Be it enacted by the Legislature of the State of Texas: That whenever there exists within the corporate limits of any city or town organized under the general laws within this State, territory to the extent of at least ten acres, contiguous, uninhabited and adjoining the lines of any such city or town, the mayor and the city or town council may by ordinance duly passed discontinue said territory as a part of said city or town; and when said ordinance has been duly passed, the mayor shall enter an order to that effect on the minutes or records of the city or town council, and from and after the entry of such order said territory shall cease to be a part of said city or town.

Sec. 2. Whereas, there is now no law authorizing towns and city corporations organized under the general law to discontinue as a part of such corporation uninhabited territory, the near approach to the end of this session, and the great number of bills now undisposed of, creates an

emergency and imperative public necessity to suspend the constitutional rule requiring bills to be read on three several days, said rule is so suspended and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 29th day of April, A. D. 1895, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

COUNTY CONVICTS—COUNTY'S LIABILITY FOR COSTS, ETC.

OHAP. 115.—[H. B. No. 593.] **An act to amend article 3600 of the Revised Civil Statutes of the State of Texas.**

Section 1. Be it enacted by the Legislature of the State of Texas: That article 3600 of the Revised Civil Statutes of the State of Texas be amended so as to hereafter read as follows:

Article 3600. Whenever a convict who has been committed to jail in default of payment of fine and costs adjudged against him, has satisfied such fine and costs in full by labor in the work house, on the county farm, on the public roads of the county or upon any public works of the county, said county in which said conviction was had shall be liable to each officer and witness having costs in the case against said convict for only one-half of such costs, and the county judge of said county shall issue his warrant upon the county treasurer in favor of each officer and witness for one-half of all such legal costs as may have been taxed up against said convict, not to include commissions, and the same shall be paid out of the road and bridge fund of the county or out of any other county funds not otherwise appropriated.

Sec. 2. That all laws and parts of laws in conflict herewith be and the same are hereby repealed.

Sec. 3. The near approach of the close of the present session of the Legislature and the great importance of this bill to the counties of the State, creates an emergency that the rule requiring bills to be read on three several days be suspended, and this bill be placed on its third reading and final passage.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 29th day of April, A. D. 1895, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

TAX COLLECTORS—DIVISION OF FEES.

CHAP. 116.—[S. B. No. 209.] An act to amend article 4767, section 1, of the Revised Civil Statutes of the State of Texas, with reference to the compensation of tax collectors, so as to regulate the division of commissions between incoming and outgoing collectors, so as to prevent double payment, and to fix the amount of such commissions.

Section 1. Be it enacted by the Legislature of State of Texas: That section 1, article 4767, of the Revised Civil Statutes of the State of Texas, be so amended as to hereafter read as follows:

Article 4767. Section 1. There shall be paid for the collection of taxes as compensation for the services of the collector, beginning with the first day of September of each year, 5 per cent on the first \$10,000 of taxes collected, and 4 per cent on the next \$10,000 collected for the State, and $1\frac{1}{4}$ per cent on all collections over that sum; for collecting the county taxes, 5 per cent on the first \$5000 of such taxes collected, and 4 per cent on the next \$5000 collected, and 2 per cent on all such taxes collected over that sum; and in counties owing subsidies to railroads, the collector shall receive only 1 per cent for collecting such railroad tax, and in case where property is levied on and sold for taxes he shall receive the same compensation as allowed by law to sheriffs or constables upon making a levy and sale in similar cases, but in no case to include commissions on such sales.

Sec. 2. Whereas, there is no law providing for the division of commissions between incoming and outgoing collectors, and the crowded condition of the calendar creates an emergency that the constitutional rule requiring bills to be read on three several days be suspended and it is enacted that said rule is hereby suspended.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 27th day of April, A. D. 1895, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

JUDICIAL DISTRICTS—THIRTY-SEVENTH AND
FORTY-FIFTH.

CHAP. 117.—[H. B. No. 699.] An act to amend an act entitled "An act to be entitled an act to amend section 37 of an act entitled an act to redistrict the State into judicial districts and fix the time for holding courts therein, and to provide for the election of judges and district attorneys in said districts at the next general election to be held on the first Tuesday after the first Monday in November, 1884, approved April 9, 1883; to create the Forty-fifth Judicial District of the State of Texas, fix the time for holding court therein, and fixing the time for holding court in the Thirty-seventh Judicial District, and to provide for the appointment of a district judge for said Forty-fifth Judicial District, and to provide for the venue of causes in said courts, and to regulate the transfer thereof from one of said courts to the other," passed by the Twenty-first Legislature, and being chapter 140 of the acts of said Legislature; to prescribe the time for holding the district courts of Bexar county, of the Thirty-seventh Judicial District, and of the Forty-fifth Judicial District, to define the jurisdiction thereof, and to repeal all laws and parts of laws in conflict herewith.

Section 1. Be it enacted by the Legislature of the State of Texas: That section 37 of the above recited act as amended by the Twenty-first Legislature, being chapter 140 of the acts of said Legislature, be so amended as to hereafter read as follows:

Section 37. (1) That the county of Bexar shall constitute the Thirty-seventh Judicial District and the Forty-fifth Judicial District, and the jurisdiction of the district courts in and for said Thirty-seventh and said Forty-fifth Judicial Districts shall be concurrent, and shall extend with the limits of said Bexar county.

(2) The district court of the Thirty-seventh Judicial District shall hold five terms; one beginning on the first Monday in October, and may continue in session four weeks. One term beginning on the first Monday in November, and may continue in session eight weeks. One term beginning on the first Monday in January, and may continue in session eight weeks. One term beginning on the first Monday in March, and may continue in session eight weeks. One term beginning on the first Monday in May, and may continue in session eight weeks. The district court of the Forty-fifth Judicial District shall hold five terms; one beginning on the first Monday in October, and may continue in session eight weeks. One beginning on the first Monday in December, and may continue in session eight weeks. One term beginning on the first Monday in February, and may continue in session eight weeks. One term beginning on the first Monday in April, and may continue in session eight weeks. One term beginning on the first Monday in June, and may continue in session four weeks.

(3) That all writs and process heretofore issued or that may hereafter be issued up to the time this act shall take effect by and from said district courts and made returnable to the terms of said courts as now fixed by law, shall be returnable to the next ensuing terms of said courts as fixed by this act, and all such writs and process shall be valid and legal.

(4) That the judge of the district court of the Thirty-seventh Judicial District, as heretofore existing, shall be and remain the judge of the district court of the Thirty-seventh Judicial District as provided for in this act until the expiration of his term of office, and until his successor shall have been elected and qualified. And the judge of the district court of

the Forty-fifth Judicial District as heretofore existing shall be and remain the judge of the district court of the Forty-fifth Judicial District as provided for in this act until the expiration of his term of office, and until his successor shall have been elected and qualified. And hereafter the judge of each of said courts shall be elected by the qualified voters of said Bexar county. The judges of said courts may, in their discretion, transfer any suit or cause of action, civil or criminal, from one district court to another.

(5) That the district attorney of the Thirty-seventh Judicial District shall be and remain the district attorney of the Thirty-seventh Judicial District as herein defined, and shall also represent the State in all cases, criminal and civil, in the Forty-fifth Judicial District, and shall be elected by the qualified voters of said Thirty-seventh Judicial District.

(6) That all laws and parts of laws in conflict with this act be and the same are hereby repealed.

(7) The crowded condition of the dockets of said district courts of Bexar county, and the near approach of the end of the present session of the Legislature, and the great number of bills pending, creates an emergency and an imperative public necessity that the constitutional rule requiring this bill to be read on three several days be suspended, and that this [act] take effect from its passage, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 24th day of April, A. D. 1895, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

SHERIFFS AND OTHER PEACE OFFICERS—FEES.

CHAP. 118.—[H. B. No. 14.] An act to amend article 1094 of chapter 4 of title 15 of the Code of Criminal Procedure of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas: That article 1094, chapter 4, title 15, of the Code of Criminal Procedure, be and the same is hereby amended so as to hereafter read as follows:

Article 1094. The following fees shall be allowed the sheriffs or other peace officer performing the same services in misdemeanor cases, to be taxed against the defendant on conviction:

1. For executing each warrant of arrest or *capias*, or making arrest without warrant, one dollar.
2. For summoning each witness, fifty cents.
3. For serving any writ not otherwise provided for, one dollar.
4. For taking and approving each bond and returning the same to the court house, when necessary, one dollar.
5. For each commitment or release, one dollar.
6. Jury fee in each case actually tried by jury, fifty cents.
7. For attending a prisoner on *habeas corpus*, when such prisoner, upon a hearing, has been remanded to custody or held to bail, for each day's attendance, two dollars.

8. For conveying a witness, attached by him, to any court out of his county, his actual necessary expenses by the nearest practicable public conveyance, the amount to be stated by said officer, under oath, and approved by the judge of the court from which the attachment issued.

9. For conveying a prisoner after conviction to the county jail, for each mile, going and coming, by the nearest practicable route, by private conveyance, ten cents a mile, or by railway, seven and one-half cents a mile.

10. For conveying a prisoner arrested on a warrant or capias issued from another county to the court or jail of the county from which the process was issued, for each mile traveled, going and coming, by the nearest practicable route, twelve and a half cents.

11. For each mile he may be compelled to travel in executing criminal process and summoning or attaching witnesses, five cents. For traveling in the service of process not otherwise provided for, the sum of five cents for each mile going and returning: If two or more persons are mentioned in the same writ, or two or more writs in the same case, he shall charge for the distance actually and necessarily traveled in the execution of the same.

Sec. 2. The fact that there is now no law authorizing the payment of fees to sheriffs and constables for services rendered in misdemeanor cases, in serving certain process, creates an emergency and public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on the 27th day of April, A. D. 1895, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution,, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

FISH LAW—EXEMPTING DENTON, NACOGDOCHES AND NAVARRO COUNTIES.

CHAP. 119.—[H. B. No. 166.] An act to amend sections 1 and 2 of chapter 86 of the General Laws of the State of Texas, passed by the Twenty-third Legislature, exempting Denton, Nacogdoches and Navarro counties from the provisions of said law, making it a penal offense to use traps, nets, and seines for the purpose of taking fish.

Section 1. Be it enacted by the Legislature of the State of Texas: That sections 1 and 2 of an act entitled "An act to prevent the catching and taking of fish, except with the ordinary hook, line and pole or trot line, and to prevent the use of traps, nets, seines, china berries, India berries, or other poisonous substances, or dynamite, giant powder, nitro glycerine, or other explosive compounds in any waters in the counties of Burnet, Hardin, Liberty, Tyler, Harrison, Nacogdoches, Tom Green, Bexar, Navarro, Travis, Austin, Jefferson, San Augustine, Jasper, Newton, Denton and Marion, State of Texas, for the purpose of catching or taking of fish therefrom, and to provide penalties for the violation of the provi-

sions of this act," passed by the Twenty-third Legislature, be amended so as to hereafter read as follows:

Section 1. That hereafter no person or persons shall throw, drag or haul any fish net, seine or other contrivance for the purpose of catching fish (except the ordinary hook, line and pole or trot line) in any stream, lake or pool of water within the counties of Burnet, Hardin, Liberty, Tyler, Harrison, Tom Green, Bexar, Travis, Austin, Jefferson, San Augustine, Jasper, Newton and Marion, State of Texas, above tide water, at any time of the year; and any one violating the provisions of this section shall, upon conviction, be fined in a sum of not less than twenty-five nor more than fifty dollars, with all costs.

Section 2. No person or persons shall be permitted to set, place, or use any fixed net, trap or other contrivance for catching or trapping fish in any waters in the counties of Burnet, Hardin, Liberty, Tyler, Harrison, Tom Green, Bexar, Travis, Austin, Jefferson, San Augustine, Jasper, Newton and Marion; and any one violating the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof in any court of competent jurisdiction shall be fined in any sum not less than twenty-five nor more than seventy-five dollars, together with all costs in the case, and each day that any net, trap or other contrivance for trapping or catching fish as contemplated by this section shall remain set or placed shall constitute a separate offense under this section: Provided, that nothing in this section shall be construed so as to prevent or prohibit the fish commissioner of this State from taking any fish at any time for breeding and scientific purposes, and for stocking waters.

Sec. 2. The fact that Denton county is now under a law which prohibits netting and trapping of fish, which is obnoxious to a large majority of the citizens of said county, creates an emergency and public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect from and after its passage, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 29th day of April, A. D. 1895, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

DEEP WATER CHANNELS AND DOCKS.

CHAP. 120.—[S. B. No. 220.] An act to amend article 644b of an act entitled "An act to amend title 20 of the Revised Civil Statutes of the State of Texas, entitled 'Private Corporations,' by adding another chapter thereto, to be styled chapter fourteen, authorizing the construction, owning and operating deep water channels and docks," approved April 1, 1887.

Section 1. Be it enacted by the Legislature of the State of Texas: That article 644b of the Revised Civil Statutes of Texas, as adopted by an act of the Twentieth Legislature, approved April 1, 1887, be so amended as to read as follows:

Article 644b. Every such channel corporation shall, in addition to the power conferred, have power:

1. To cause such examination and survey for its proposed channel to be made as may be necessary to the selection of the most advantageous route for such purpose, by its officers, agents or servants, to enter upon any of the waters of such bays and upon any of the lands of this State, or of any person.

2. To take and hold such voluntary grant of real estate and other property as shall be made to it to aid in the construction and maintenance of its deep water channel and works pertinent thereto.

3. To construct its channel across, along, through or upon any of the waters of the bays within the jurisdiction of this State, and so far into the main land as may be necessary to reach a place for its docks that will afford security from cyclones, storms, swells and tidal waves, with such depth as may suit its convenience and the wants of navigation, not less than five feet, and a width of not less than forty feet.

4. To furnish to vessels and boats adapted to the purpose facilities for navigating in and along the entire length of its channel, and to charge and collect a toll therefor, to be prescribed and established by its by-laws, not to exceed one cent per barrel bulk of the capacity of each vessel for each mile of the length of its channel used by the vessel going either way.

5. To borrow such sums of money as may be necessary for constructing, finishing or operating its channel, and to issue and dispose of its bonds for any amount so borrowed, and to mortgage its corporate property and franchises to secure the payment of any debt contracted for the purposes aforesaid: Provided, that damages for any property appropriated by such corporation shall be assessed and paid for as is provided for in the case of railroads.

6. To enter upon and condemn and appropriate any lands of any person or corporation that may be necessary for the uses and purposes of such channel corporation. The damages for any property thus appropriated to be assessed and paid for in the same manner as provided by law in the case of railroads: Provided, that no damages shall be assessed against or paid by it for any portion of the route of its channel embraced within and covered by the waters of any bay on the coast of this State, nor for any portion of any island belonging to the State that may be requisite and necessary to the construction and successful operation of its channel: And provided further, that its right of way shall be the actual width of its channel, and not more than six hundred feet in width situated wholly or in part on either side of the channel: Provided, that when the land sought to be condemned under this act is arable land, such right of way shall not extend further than one hundred and fifty feet on each side from the edge or boundary of said channel.

7. To construct, own and operate its channel so far into the waters of the Gulf of Mexico as may be necessary to obtain an adequate depth of water at its gulf entrance to facilitate the ingress and egress of such vessels as may navigate the same, in so far as this State may have the power to grant such right, which shall be in subordination to that of the government of the United States, in as far as that government has the constitutional power to control the same.

Sec. 2. The near approach of the close of the present session of the

Legislature and the large number of bills upon the calendar and the importance of this measure create an imperative public necessity and an emergency exists that the constitutional rule requiring bills to be read on three several days be suspended, and it is so ordered, and this act shall take effect and be in force from and after its passage.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 30th day of April, A. D. 1895, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

CONNECTING LINES OF COMMON CARRIERS.

CHAP. 121.—[S. B. No. 101.] An act to further define connecting lines of common carriers; their relationship to each other, and to those dealing with them, or either of them, and to prescribe a rule of evidence as to such relationship, and to further prescribe their duties and liabilities.

Section 1. Be it enacted by the Legislature of the State of Texas: That all common carriers over whose transportation lines, or parts thereof, any freight, baggage or other property received by either of such carriers for through shipment or transportation by such carriers between points in this State on a contract for through carriage recognized, acquiesced in or acted upon by such carriers shall, in this State, with respect to the undertaking and matter of such transportation, be considered and construed to be connecting lines, and be deemed and held to be the agents of each other, each the agent of the others, and all the others the agents of each, and shall be deemed and held to be under a contract with each other and with the shipper, owner and consignee of such property for the safe and speedy through transportation thereof from point of shipment to destination; and such contract as to the shipper, owner or consignee of such property shall be deemed and held to be the contract of each of such common carriers; and in any of the courts of this State any through bill of lading, waybill, receipt, check or other instrument issued by either of such carriers, or other proof showing that either of them has received such freight, baggage or other property for such through shipment or transportation, shall constitute prima facie evidence of the subsistence of the relations, duties and liabilities of such carriers as herein defined and prescribed, notwithstanding any stipulations or attempted stipulations to the contrary by such carriers, or either of them.

Sec. 2. For any damages for injury or damage to or loss or delay of any freight, baggage or other property sustained anywhere in such through transportation over connecting lines, or either of them, as contemplated and defined in the next preceding section of this act, either of such connecting carriers which the person or persons sustaining such damages may first elect to sue in this State therefor shall be held liable to such person or persons; and such carrier so held liable to such person or persons shall be entitled in a proper action to recover the amount of any loss, damage or injury it may be required to pay such person or

persons from the carrier through whose negligence the loss, damage or injury was sustained, together with costs of suit.

Sec. 3. There being in this State no adequate law on the subject stated in the caption hereof, and there being a large and growing amount of work on the calendar of the Legislature, an emergency and imperative public necessity exists for the suspension of the constitutional rule requiring bills to be read on three several days and that this act take effect upon its passage, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 30th day of April, A. D. 1895, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.

UNION DEPOTS.

CHAP. 122.—[S. S. B. No. 106.] An act to authorize the incorporation of companies for the purpose of constructing union depots, and to authorize railway companies to own stock and bonds of such depot companies, and to regulate the issuance of bonds by such union depot companies.

Section 1. Be it enacted by the Legislature of the State of Texas: That corporations may be formed for the purpose of acquiring, owning, constructing and operating union passenger depots at any point in the State of Texas where two or more railroads now or hereafter intersect. Such corporations may be formed in the manner provided in title 20 of the Revised Statutes of the State of Texas, and shall have all the powers and be subject to all the restrictions and requirements of the said title.

Sec. 2. The provisions of chapter 50 of the general laws of Texas, 1893, shall govern and control the issuance of stock and bonds by such companies as far as the same are applicable. Railroad companies existing under the laws of this State, whether under special act or charter, or whether incorporated under the general laws of the United States, are authorized and empowered to subscribe for stock and purchase and own stock or bonds of any depot company formed under the authority of this act.

Sec. 3. The fact that there are no adequate provisions of law under which the purposes of this act can be accomplished, and there is a present urgent need therefor, creates an imperative public necessity and emergency justifying a suspension of the constitutional rule requiring bills to be read on three several days, and it is so suspended, and that this act take effect from and after its passage, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 27th day of April, A. D. 1895, but was not signed by him nor returned to the House in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

PUBLIC FREE SCHOOLS—CANCELLATION OF CERTAIN CERTIFICATES.

CHAP. 123.—[S. B. No. 143.] An act to amend section 66, chapter 122, of an act to provide for a more efficient system of public free schools, etc., passed at the regular session of the Twenty-third Legislature, approved May 20, 1893, and cancelling certain certificates.

Section 1. Be it enacted by the Legislature of the State of Texas: That section 66, chapter 122, of an act to provide for a more efficient system of free schools, passed at the regular session of the Twenty-third Legislature, approved May 20, 1893, shall hereafter read as follows:

Section 66. An applicant for a permanent certificate shall be examined upon the branches prescribed for third, second and first grade certificates, and in addition thereto in the history of education, general history, psychology, English and American literature, chemistry, solid geometry, plane trigonometry and elementary double entry bookkeeping. A permanent certificate shall be valid during good behavior of the holder: Provided, that if any person holding a permanent certificate shall withdraw from the school work for a period of three years or longer, such certificate shall become void, and it shall be the duty of the county superintendent or the State Superintendent, if the certificate be a State certificate, to cancel the same upon the records of his office. To receive a permanent certificate the applicant shall be a teacher of not less than three years successful experience in the schools of Texas, and upon examination shall make upon prescribed subjects an average grade of not less than eighty-five, and on each prescribed subject a grade of not less than fifty: Provided, further, that all certificates that have heretofore been issued by county superintendents or county judges without the favorable recommendations of the county boards of examiners after examining the applicants on the subjects prescribed by law, are hereby declared null and void, and the same are hereby cancelled and declared of no force.

Section 66a. The board of examiners shall grade the papers of the applicants on the basis of one hundred credits for a perfect paper, and endorse on each paper, in ink, the number of credits allowed on each answer, and the average (total) on the paper, and shall make to the county superintendent a separate report, under oath, on the examination of each applicant, which shall show the names of the members of the board conducting the examination, and the number of credits allowed upon each subject, and shall, if they believe that the applicant has fairly observed the rules prescribed for the examination, and if the applicant has made the grades and average required, recommend that he shall receive a certificate of such class, if any, as he may be entitled to, and shall deposit his papers with the county superintendent.

Section 66b. The county superintendent shall, upon the request of any applicant for second (grade), first (grade), or permanent certificate, made in writing, before the adjournment of the board of examiners, forward to the State Superintendent, to be submitted to the State board of examiners, hereinafter provided, such applicant's papers and the report of the county board of examiners thereon, together with one dollar of the fee deposited with him: Provided, that this shall not in any manner

interfere with the issuance of the proper county certificate to said applicant.

Section 66c. The State board of examiners shall, at their next meeting after the receipt of said papers and report, together with said fee of one dollar, examine said papers and report thereon, and if they believe that the papers are fairly and accurately graded, they shall make a report to the State Superintendent, and shall recommend that the county certificate issued upon said examination be made valid in all the counties of the State, and they shall notify said applicant of their action, who may forward his county certificate to the State Superintendent of Public Instruction, who may issue in lieu thereof another certificate of equal rank, valid in all the counties of the State, and the State Superintendent shall preserve a record of certificates thus issued by him.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 29th day of April, A. D. 1895, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

ESCHEATED ESTATES.

CHAP. 124.—[S. B. No. 312.] An act to amend article 1784 of title 36, Revised Civil Statutes of Texas, relating to escheated estates.

Section 1. Be it enacted by the Legislature of the State of Texas: That article 1784 of title 36, Revised Civil Statutes of Texas, shall hereafter read as follows:

Article 1784. The court shall examine the claim and the allegations and proofs, and if it shall find that such person is an heir, devisee, legatee or legal representative, whether citizen or foreigner, such court shall make an order directing the Comptroller to issue his warrant on the treasury for the payment of the same, but without interest or costs, a copy of which order, under the seal of the court, shall be a sufficient voucher for issuing such warrant, and the same proceedings shall be instituted for the recovery of any money or property heretofore deposited with the Treasurer or Comptroller in accordance with the laws heretofore existing: Provided, that if such heir, devisee, legatee or legal representative or their assigns shall sue for and recover such estate, real or personal, in any court of competent jurisdiction in this State from any purchaser at sheriff's sale, as hereinbefore provided, or from his heirs, devisees, legatees, legal representatives or assigns, then and in any such event a certified copy of such judgment of recovery, together with the affidavit of the party cast in the suit that he is the owner of and entitled to the money theretofore paid into the state treasury as the proceeds of such escheated estate, shall be sufficient authority for the issuance by the Comptroller of a warrant on the State treasury for the payment to such purchaser, his heirs, legal representatives or assigns, such net amount of money as was paid into the State treasury by reason of said sheriff's sale of such estate.

Sec. 2. Whereas, there is no law enabling purchasers to recover from the State the amount paid by them when such estates are sued for and recovered by the heirs or legal representatives of the deceased; and, whereas, there are funds now in the State treasury belonging to such purchaser and no law authorizing the Treasurer to repay same; therefore an emergency is created and an imperative public necessity exists that the constitutional rule requiring bills to be read on three several days be suspended, and that this act be in force and effect from and after its passage, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 30th day of April, A. D. 1895, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

PRIVATE CORPORATIONS.

CHAP. 125.—[S. B. No. 66.] An act to amend article 566, chapter 2, title 20, of the Revised Civil Statutes of the State of Texas, as amended by the Twenty-third Legislature, chapter 83, page 109, relating to the purpose for which private corporations may be formed.

Section 1. Be it enacted by the Legislature of the State of Texas: That article 566 of chapter 2, title 20, of the Revised Civil Statutes of the State of Texas, as amended by the Twentieth Legislature, approved April 30, 1888, and amended by Twenty-second Legislature, chapter 101, pages 161 and 162, and as amended by the Twenty-third Legislature, chapter 83, page 109, be so amended as hereafter to read as follows:

Article 566. The purposes for which private corporations may be formed are:

1. The support of public worship.
2. The support of any benevolent, charitable, educational or missionary undertaking.
3. The support of any literary and scientific undertaking; the maintenance of a library, or the promotion of painting, music and other fine arts.
4. The encouragement of agriculture and horticulture by associations for the maintenance of public fairs and exhibitions of stock and farm products.
5. The maintenance of a public or private cemetery or crematory.
6. The construction and maintenance of any species of roads and bridges in connection therewith.
7. The construction and maintenance of a bridge which may be used for any or all modes of travel and transportation.
8. The construction and maintenance of a telegraph and telephone line.
9. The establishment and maintenance of a ferry.
10. The establishment and maintenance of a line of stages.
11. Building and navigation of steamboats and vessels and the carriage of persons and property therein.

12. The supply of water to the public.

13. The manufacture and supply of gas, and the supply of light, heat, and electric motor power, or either of them, to the public by any means.

14. The transaction of any manufacturing or mining business and the purchase and sale of such goods, wares and merchandise used for such business.

15. The transaction of a printing or publishing business, and in connection therewith the sale of goods, wares and merchandise of a stationery and blank book manufacturing business.

16. The establishment and maintenance of a hotel or steam laundry.

17. The erection or repair of any building or improvement, and the accumulation and loaning of money for said purposes, and for the purchase, sale and subdivision of real property in towns, cities and villages and their suburbs, not extending more than two miles beyond their limits, and for the accumulation and loaning of money for that purpose.

18. The transportation of goods, wares and merchandise, or of any valuable thing.

19. The promotion of immigration.

20. The construction and maintenance of sewers.

21. For the constructing, acquiring and maintaining and operating street railways and suburban or belt lines of railway within and near cities and towns, which may also construct, own and operate union depots. But no street railway company shall ever be exempt from the payment of assessments that may be legally levied or charged against it for street improvement. And for the establishment of companies to buy, own, sell and convey the right of way upon which to construct railroads.

22. The erection and maintenance of market houses and market places.

22. The construction, maintenance and operation of dams, reservoirs, lakes, wells, canals, flumes, laterals, and other necessary appurtenances for the purposes of irrigation, navigation, milling, mining, stockraising, and city water works.

24. The purchase and sale of goods, wares and merchandise and agricultural and farm products.

25. For the purpose of buying and selling goods, wares and merchandise of any description by wholesale or wholesale and retail; but the limitation upon stock and stockholders in corporations created under subdivision 24 of this article shall not apply to corporations created under this subdivision: Provided, that no corporation created under this subdivision shall be chartered with a capital stock of less than twenty thousand dollars: And provided, further, that such wholesale and retail business shall not be conducted apart or in separate establishments.

26. The construction of harbors and canals on the coast of the Gulf of Mexico.

27. The growing, selling and purchasing of seeds, plants, trees, etc., for agricultural, horticultural and ornamental purposes, and to purchase and lease all lands necessary for that purpose.

28. The construction or purchase and maintenance of mills, gins, cotton compresses, grain elevators, wharves and public warehouses for the storage of products and commodities, and the purchase, sale and storage of products and commodities by grain elevator and public warehouse companies, and the loan of money by such elevator or public warehouse companies.

29. The accumulation and loan of money; but this subdivision shall not permit incorporations with banking or discounting privileges.

30. The construction and maintenance of stock yards and pens.

31. The construction and maintenance of establishments for slaughtering, refrigerating, canning, curing and packing meat, and loaning or advancing money by such establishments on any class of live stock.

32. The construction and maintenance of establishments for the preserving and canning of fruits, vegetables and fish.

33. The establishment and maintenance of clearing houses.

34. To construct and maintain water power.

35. For the purpose of constructing railroads and bridges for railroad companies.

36. To support and maintain bicycle clubs and other innocent sports.

37. To act as trustee or assignee or receiver, when designated by any person, corporation or court so to do, and to do a general fiduciary and depository business; to act as surety and guarantor of the fidelity of employees, trustees, executors, administrators, guardians, public officials, or others appointed to or assuming the performance of any duty or trust, public or private, under appointment by any court or tribunal, or under contracts between private individuals or corporations; also on any bond or bonds that may be required to be filed in any judicial proceeding; to act as executor and testamentary guardian, when designated as such by decedents: Provided, that when any executor's, administrator's or guardian's bond, or any bond required to be filed in any judicial proceeding or required to be filed by any public official, may be signed as surety by any corporation organized by authority of this act, and if such corporation shall be deemed and considered by the officer charged by law with the duty of accepting and approving such bond as sufficient security for the amount of such bond, such bond may be accepted and approved by the officer charged by law with the duty of accepting and approving the same, without being signed by other surety than such corporation, and any statute or law to the contrary, or requiring any such bond to be signed by two or more good and sufficient sureties, shall be governed and controlled by the provisions of this act: Provided, that each corporation organized under this section shall publish in some newspaper of general circulation in the county where such company is organized, on the 1st day of February of each year, a statement of its condition on the previous 31st day of December, showing under oath its assets and liabilities, and that a copy of this statement be filed with the Commissioner of Insurance, Statistics and History, and a fee of twenty-five dollars is paid to that officer for filing the same, and that an examination of its affairs be made at any time by the Commissioner of Insurance, Statistics and History, such examination to be at the expense of the company: Provided, that guaranty or fidelity companies organized under the provisions of this section shall at all times keep or deposit with the Secretary of State not less than fifty thousand dollars in available cash assets, and that this amount be kept intact at all times.

38. For establishing transportation companies with power to buy, construct, lease, own, operate, maintain and convey all kinds of steam ships, vessels and other water crafts, and may navigate the same between all ports of the globe, and upon rivers; and construct, buy, lease, own, maintain, operate and convey warehouses, docks and wharves, and to

buy, lease, receive, own, hold and enjoy real and personal property necessary in the transaction of its business; to receive, purchase, hold, use and convey such rights, privileges, franchises and property, and to exercise beyond the jurisdiction of this State such power as may be granted to or conferred upon it by any foreign government, State or municipality; to have officers and agents and to maintain offices at all points at which the company may do business; to act as principal or agent in buying or selling merchandise in all foreign countries; to carry passengers, freight, express and mail.

39. The establishment of land companies to buy, own, sell and convey real estate in any State or foreign county; but such companies shall only own such real estate in this State as may be necessary for its office.

40. Any person or association of persons for the purpose of making, compiling and owning an abstract of titles to lands and liens of all character on any property, or any other abstract of records of this State, or any county thereof, required by law to be recorded.

41. The improvement of rivers and other waterways in this State, and to render the same navigable for steam vessels and other water crafts, with the authority to charge and collect tolls for the navigation of such rivers and waterways.

42. The protection, preservation and propagation of fish and game.

43. For the organization and maintenance of volunteer fire companies.

44. For the protection of women and children, and for the prevention of cruelty to animals.

45. For the erection and maintenance of sanitariums.

46. For the organization of fire, marine, life and live stock insurance companies.

47. To construct steam and electric plows for breaking, cultivating and draining of lands.

48. For the organization of laborers, workingmen, wage earners and farmers to protect themselves in their various pursuits.

49. For promoting and taking stock in manufacturing companies or corporations.

50. For the organization of mutual fire associations without an authorized or subscribed capital stock. The stockholders of all private corporations created under the provisions of this act shall be required to subscribe at least fifty per cent and pay in at least ten per cent of its authorized capital before it shall be authorized to do business in this State; and whenever the stockholders of any such company shall furnish satisfactory evidence to the Secretary of State that at least fifty per cent of its authorized capital has been subscribed and ten per cent paid in, it shall be the duty of said officer to receive, file and record the charter of such company in the office of the Secretary of State upon application and the payment of all fees therefor, and to give his certificate showing the record of such charter and authority to do business thereunder: Provided, that foreign corporations obtaining permits to do business in this State shall show to the satisfaction of the Secretary of State that fifty per cent of their authorized capital stock has been subscribed and that at least ten per cent of the authorized capital has been paid in before such permit is issued.

51. The raising, buying and selling of live stock.

52. The establishment and carrying on of dairies and creamery companies.

53. The construction, maintenance and operation of terminal railway companies, said companies to have no right to charge other railroads for terminal facilities beyond what may be prescribed by the Railroad Commission.

54. To build, maintain and operate a line of road to mines, gins, quarries and mills, and to condemn land necessary for right of way for such road from and between such mine, gin, quarry or mill and the nearest line of railroad.

Sec. 2. The crowded condition of the calendar, and the near approach of the end of the session, creates an emergency and imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and this bill be put upon its third reading and final passage, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 30th day of April, A. D. 1895, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

LIENS—MECHANICS, CONTRACTORS, LABORERS AND MATERIAL MEN.

CHAP. 126.—[S. B. No. 284.] An act to amend sections 1, 3, 4, 5, 7, 8 and 9 of an act passed by the Twenty-first Legislature, approved April 5, 1889, being an act relating to the liens of mechanics, contractors, sub-contractors, builders, laborers, and material men.

Section 1. Be it enacted by the Legislature of the State of Texas: That sections 1, 3, 4, 5, 7, 8 and 9 of an act passed by the Twenty-first Legislature, approved April 5, 1889, be so amended as to hereafter read as follows:

Section 1. Any person or firm, lumber dealer or corporation, artisan, laborer, mechanic or sub-contractor who may labor or furnish material, machinery, fixtures or tools to erect any house or improvement or to repair any building or improvement whatever, or furnish any material for the construction or repair of any railroad within this State under or by virtue of a contract with the owner or his agent, trustee, receiver, contractor or contractors, upon complying with the provisions of this act shall have a lien on such house, building, fixtures, improvements or railroad, and all its properties, and shall also have a lien on the lot or lots of land necessarily connected therewith, to secure payment for the labor done, lumber, material, machinery or fixtures and tools furnished for construction or repair. The word "improvement," as used herein, shall be construed so as to include wells, cisterns, tanks, reservoirs or artificial pools or lakes made for supplying or storing water, and all pumps, syphons, wind mills or other machinery or appliances used for raising water for stock, domestic use or for irrigation purposes.

Section 3. Any person, firm or corporation who may furnish any material to any contractor, sub-contractor, agent or receiver, to be used in the erection of any house, building or improvement, or to repair any house, building or improvement, or to construct or repair any railroad or its properties, by giving written notice to the owner or his agent of such house, building or improvement, or the railroad company, its agent or receiver, of each and every item furnished, and by showing how much there is due and unpaid on each bill of lumber or material furnished by said lumberman, corporation or material man under said contract, at any time within ninety days after the indebtedness shall have accrued, may fix and secure the lien provided for in this act as to the material furnished at the time or subsequent to the giving of the written notice above provided for, by filing in the office of the county clerk of the county in which such property is situated, and if it be a railroad company in any county through which its road may pass, an itemized account of his or their claim, as provided in this section, and cause the same to be recorded in a book kept by the county clerk for that purpose: Provided, that in no case shall the owner be compelled to pay a greater sum for on account of labor performed or material, machinery, fixtures and tools furnished as provided in this act than the price or sum stipulated in the original contract between such owner and the original contractor or builder of such house, building, fixtures, improvements or repairs.

Section 4. If there be no written contract, it shall be the duty of the person seeking to obtain the benefit of this act to deliver to the clerk of the county court a sworn account as provided for in sections 2 and 3, to be filed and recorded as therein provided, and in such cases when the labor is performed for or the material is furnished to the owner of the building or improvements, or the owner or receiver of any railroad, the following form may be used, and will be sufficient to fix the meaning contemplated by this act:

The State of Texas, {
County of ———. }

A. B., affiant, makes oath and says that the annexed is a true and correct account of the labor performed (or material furnished) C. D., of ——— county, Texas, and that the prices thereof as set forth in said account hereto annexed are just and reasonable, and the same is unpaid; that said labor was performed (or material furnished, or both) for said C. D. at the time in said account mentioned, under and by virtue of a contract between affiant (or affiant's principal) and C. D., and that due notice was given by affiant (or his principal) of the labor performed (or material furnished) in accordance with section 3; and affiant further makes oath and says that he is informed that C. D. was at the time said contract was made and entered into and said labor was performed (or material furnished) the owner of the house (or improvements) described as follows: (Here describe the house or improvements.) And the said house (or improvements) is situated upon a certain lot or tract of land which affiant is informed is owned by said C. D., and which is described as follows: (Here describe the lot or lots or the land.) And this affiant (or his principal) claims a lien upon said house (or improvements) and upon said land. (Or if the material was furnished to any railroad company, its agent or receiver, to construct or repair its railroad or other property, then the affiant shall describe said railroad by giving its

charter name and the name of the receiver, if any, and the agent of said company, if any, with whom the contract was made, and that affiant or his principal claims a lien on said railroad and its property.) Provided, however, a substantial compliance with the above form shall be deemed sufficient to fix and secure the lien.

Section 5. If the labor is performed for or the material is furnished to a contractor, builder, agent or receiver, and not the owner of the property, then the following form shall be deemed sufficient to fix the lien provided for by this act:

The State of Texas, }
County of ———. }

A. B., affiant, makes oath and says that the annexed is a true and correct account of the labor performed for (or the material furnished to) C. D., a contractor (builder, agent, or receiver) by affiant (or his principal), and the prices therefor as set forth in the annexed account are just and reasonable, and that the same is unpaid (or the sum of \$———, as shown by said account, is unpaid) after allowing all just and lawful offsets, payments and credits known to affiant; that said labor was performed (or material furnished, or both) for (or to) said C. D., to be used in the erection of a house (or building or improvements, or in the repair of the house, building or improvement, or in the construction or improvement of the railroad or its property), owned, as affiant is informed and believes, by E. F., of ——— county, Texas, and that said labor was performed (or material furnished, or both) to (or for) said C. D., under and by virtue of his contract between affiant (or his principal) and said C. D. (And in case of material furnished affiant shall further swear that he has given to the owner, his agent or representative or receiver, notice in writing of each item of said account as required in section 3, as the same was furnished to said C. D.: Provided, however, that a substantial compliance with the above form shall be deemed sufficient to fix and secure the lien.)

Section 7. When a contract or account is filed and recorded as required by the preceding section of this act, it shall be deemed sufficient diligence to fix and secure this lien. If this lien is against land in a city, town or village, it shall extend to or into the lot or lots upon which such house, building or improvement is situated, or upon which such labor was performed; and if the lien is against land in the country, it shall extend to and include fifty acres upon which such house, building or improvements is situated, or upon which such labor has been performed; and if the lien is against a railroad company, it shall extend to and include all of its property.

Section 8. The lien herein provided for shall attach to the house, building, improvements or railroad for which they were furnished, or the work was done, in preference to any prior lien or encumbrance or mortgage upon the land upon which the houses, buildings or improvements, or railroad have been put, or labor performed, and the person enforcing the same may have such house, building or improvement, or any piece of the railroad property sold separately: Provided, any lien, encumbrance or mortgage on the land or improvement at the time of the inception of the lien herein provided for shall not be affected thereby, and holders of such liens need not be made parties in suits to foreclose liens herein provided for.

Section 9. When the house, building, improvement, or any piece of the

railroad's property are sold separately, the officers making the sale shall place the purchaser in possession thereof, and such purchaser shall have the right to remove the same within a reasonable time from the date of the purchase.

Sec. 10. Whereas, there is now no law on the statute books extending the material man's lien to railroads; and whereas, the crowded condition of the calendar and the approach to the end of the session creates an emergency and imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and this bill be put on its third reading and final passage, and it is enacted that it be so suspended.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 29th day of April, A. D. 1895, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

MINING—DEVELOPMENT OF.

CHAP. 127.—[S. B. No. 175.] **An act to better and more fully promote the development of the mining resources of Texas, and to repeal all laws in conflict with the provisions of this act.**

Section 1. Be it enacted by the Legislature of the State of Texas: That all public school, university, asylum and public lands specially included under the operation of this act, all the lands now owned by the State situated within the reservation known as the "Pacific Reservation," which were taken off the market and reserved from sale by an act approved January 22, 1883, containing valuable mineral deposits, are hereby reserved from sale or other disposition, except as herein provided, and are declared free and open to exploration and purchase under regulations prescribed by law, by citizens of the United States and those who have declared their intention of becoming such: Provided, that all who have located and recorded valid claims under previous valid laws and have not abandoned same, but are engaged in developing same, shall have a prior preference right for ninety days after the passage of this act in which to relocate same under this act.

Sec. 2. It shall be the duty of the Commissioner of the General Land Office immediately upon the passage of this act to have a map made showing the location of all public school, university, asylum and public lands which are unsold at that date, and it shall be the duty of the Geological and Mineralogical Survey to examine all such lands as soon as practicable thereafter, and to designate such tracts as are apparently mineral bearing as mineral lands for the purposes of this act. If mineral lands are afterwards claimed to exist at other locations than are so designated they shall also be examined and classified accordingly.

Sec. 3. It shall be the duty of the Commissioner of the General Land Office to unite a suitable number of these mineral locations into mining

districts, in each of which shall be a surveyor, who must either be the surveyor of the district or county or a regular appointed deputy and an officer qualified to administer oaths.

Sec. 4. A mining claim upon veins or lodes of quartz or other rocks in place bearing silver, gold, cinnabar, lead, tin, copper, and other valuable metals, excluding deposits of kaolin, baryta, salt, marble, fire clay, iron ore, coal, oil, natural gas, gypsum, nitrates, mineral paints, asbestos, marls, natural cement, clay, onyx, mica, precious stones or any other non-metallic mineral, and stone valuable for ornamental or building purposes or other valuable building material, may equal but shall not exceed one thousand five hundred feet along the mine or vein or lode. No such claim shall exceed twenty-one acres in total area. The end lines of each claim shall be parallel to each other, and all claims shall be in the form of a parallelogram or square, unless such form is prevented by adjoining rights or boundaries of the section in which the claim lies. The locator under this act shall be entitled to the use of all the superficial area between the enclosing lines of the claim, and to all minerals thereon and between the side and end lines, extending downwards vertically, until the rights secured by posting are forfeited as provided; and in all conflicts priority of location shall decide.

Sec. 5. The locators of any mining claim shall post up at the center of one of the end lines of the same a written notice, stating the name of the location and of the claim and date of posting, and describe the claim by giving the number of feet in length and width and the direction the claim lies in length from the notice, together with the section, if known, and the county, and shall place stone monuments at the four corners and otherwise describe the corners so that they can be readily found. The notice shall be placed in a conspicuous place so it can be readily seen.

Sec. 6. The locator shall, within three months after the date of posting the required notice, sink a shaft at least ten feet in depth by four feet square, or a tunnel of the same dimensions ten feet in length, or an open cross cut twenty feet in length, four feet or more wide and ten feet in depth at its shallowest part, and shall within said time file with the county surveyor or the district surveyor of the county, as the case may be, an application in writing for the survey of the claim, which application shall be accompanied by a fee of twenty dollars, unless its tender is waived, and also with an affidavit attached thereto that the required work, signifying that it has been done, and that the locators have found valuable minerals on the claim; and the affidavit shall state the date of the first posting of the notice on the claim by the applicants, and further, that the notice has not been post dated or changed in its date. Upon receiving said application and fee the surveyor shall record the application, together with the affidavit, and he shall thereupon forthwith proceed to survey said claim, and forward the field notes to the Commissioner of the General Land Office within thirty days after filing the application, in default of which he shall pay the aggrieved party such damages as he may sustain, and in addition thereto shall be deemed guilty of a misdemeanor, and on conviction fined not less than twenty dollars nor more than one hundred dollars, and it shall be the duty of the applicants to see that the field notes are so returned. The fee of twenty dollars shall cover all the services provided for in this section. In all other cases

enumerated in this act the fee shall be the same allowed county clerks for similar services.

Sec. 7. Annually after the filing of the application for a survey as hereinbefore provided, the claimant shall, until after the application is made for a patent, as hereinafter provided, do one hundred dollars worth of work in developing each claim; but where claims adjoin, the amount of work may be done on one for all belonging to the same party. The value of such shall be estimated at what it could be contracted for at a fair cash price, but the cost of tools and implements and the expense of going to and returning from the mine shall not be included in said estimate. Within one month after the expiration of each year the owner shall make and file with the surveyor his affidavit setting forth specifically what the work consists of in detail, and the value thereof. Upon the failure of any one of several owners to contribute his proportion of the expenditures required in this act within the necessary time, the co-owners who have performed the labor or made the improvements or paid the fees or other expenditures required in this act, may at the expiration of the year in which the same is to be done, give notice in writing or notice by publication in a newspaper published in the county where the claim is, if any; if none in such county, then in the newspaper published nearest the mine, for at least once a week for ninety days. If after such personal notice in writing or by publication such delinquent shall fail or refuse to contribute his proportion of the expenditure required by this act, his interest in the claim shall become the property of his co-workers who have made the required expenditures. An affidavit by the co-owners forfeiting the interest of such delinquent shall, when recorded in the office of the proper surveyor, be sufficient evidence of such delinquency.

Sec. 8. That when a tunnel is run for the development of a vein or lode or for the discovery of mines, the owner of such tunnel shall have the right of possession of all veins or lodes within two thousand feet of the face of such claim on the line thereof, not previously known to exist, discovered in such tunnel to the same extent as if discovered from the surface; and locations on the line of such tunnel of veins or lodes not appearing on the surface made by other parties after the commencement of the tunnel and while the same is being prosecuted with reasonable diligence shall be invalid; but failure to prosecute the work in the tunnel for six months shall be considered as an abandonment of the right of all undiscovered veins on the line of said tunnel.

Sec. 9. Whenever the owners of any mining claim shall desire a patent, they shall, within five years after the filing of the application for survey, file their application for a patent upon their claim with the Commissioner of the General Land Office, accompanied by the receipt of the State Treasurer showing that twenty-five dollars per acre has been paid by the applicant for patent to the State Treasurer. Whereupon such patent shall issue unless protest is filed as hereinafter provided for in section 11.

Sec. 10. Within twelve months after the filing of the affidavit hereinafter provided for, any person or association of persons qualified as required by section 1 of this act, shall have the right to purchase and obtain patent by compliance with this act, or any of the lands of the State which are specified or included in section 1 of this act, containing valuable deposits of kaolin, baryta, salt, marble, fire clay, iron ore, coal, oil, natural gas, gypsum, nitrates, mineral paints, asbestos, marl, natural

cement, clay, onyx, mica, precious stones or any other non-metallic mineral and stones valuable for ornamental or building purposes or other valuable building material, in legal subdivisions, in quantity not exceeding one section: Provided, that where any such parties shall have heretofore expended, or shall hereafter expend, five thousand dollars in developing the aforesaid mineral resources of any of said lands, such party shall have the right to buy one additional section and no more, and to include in the purchase any section or part thereof on which the work may have been done. The land so purchased may be in different sections, and all embraced in one or more obligations, not to exceed the quantity stated. The purchaser shall pay not less than fifteen dollars per acre where the land shall be situated ten miles or less of any railroad in operation, and not less than ten dollars per acre where the land is over ten miles from such railroad, one-tenth of the purchase money to be paid in cash to the State Treasurer on or before the expiration of the twelve months aforesaid; and the purchasers shall file the Treasurer's receipt with the Commissioner of the General Land Office, together with an obligation to pay the State of Texas the remainder in nine equal annual installments, with interest at four per cent per annum from date, subject to forfeiture as in other cases; and all said lands are reserved from sale or other disposition than under this act; and where application is made to buy any of the lands herein named except under this act, the purchaser shall swear that there are none of the minerals named in this act on said lands, so far as he knows or has reason to believe or does believe: Provided further, that any party hereinbefore named, who shall prior to the passage of this act have been the first to work on said lands for the development of said mineral resources, and who has not abandoned said work, and is qualified at passage of this act to buy, shall have a prior preference right of doing so for thirty days after this act goes into effect: Provided, further, this section of this act shall not authorize the sale of lands containing valuable deposits of gold, silver, lead, cinnabar, copper or other valuable metal: Provided further, that any person desiring to acquire any lands under the provisions of this section shall have the right to prospect said land for a period of twelve months before making any payment thereon, upon condition that said prospector shall file with the proper surveyor his affidavit in writing, setting forth that he has gone upon the land in good faith with the intention of purchasing the same under the provisions of this section, and in said affidavit give a reasonable description of said land. After the filing of said affidavit the said surveyor shall immediately forward same to the Commissioner of the General Land Office, who shall take said section off the market until the expiration of said twelve months after the filing of said affidavit with the surveyor.

Sec. 11. Any person desiring to contest the issuance of patent may do so by filing with the Commissioner of the General Land Office a protest setting forth the grounds of objection generally, and that protestant has an interest in the subject matter, which protest shall also state that the same is presented in good faith and not to injure or delay the applicants or any of them, and the same shall be verified by affidavit. Whereupon it shall be the duty of the Commissioner to withhold patent until the controversy is ended: Provided, that if the protestant shall not within thirty days after filing his protest institute suit in the court having jur-

isdiction thereof in the county where the claims are located, his protest shall constitute no further barrier to the issuance of patent. A certified copy of the petition or a certificate of the clerk of the court where suit is pending shall be sufficient evidence to the Commissioner of the pendency of the suit, and of the date of filing said suit. When the land in controversy lies partly in two counties suit may be brought in either. More than one claim shall not be embraced in the same patent or application. The suits here provided for shall be entitled to precedence of trial on the docket.

Sec. 12. All claims upon which patent has not been applied for within five years next after the application for survey, or which have not been surveyed and the field notes returned to the General Land Office within the time prescribed therefor as hereinbefore provided, or upon which the assessment work has not been done, an affidavit therefor filed as provided by this act, shall be and are declared forfeited without judicial action of any kind, and subject to location as originally, but not by any one interested in the claim at the time of forfeiture, and any location for or on behalf of any such party shall be wholly void. Whenever any such claim shall be relocated, the locators and each of them shall make affidavit that the location is made without any contract or agreement of any kind that any of the parties owning an interest in the location before the relocation has or is to have any interest in the same. In all other cases where affidavit is required by this act it may be made by one or more of the parties cognizant of the facts.

Sec. 13. No claim which has been forfeited for any cause shall be subject to relocation for a period of thirty days next thereafter, and the party owning the same may apply to the Land Commissioner within that time for relief, and if it appear to him from the proof submitted that the forfeiture was not occasioned by the negligence of the owner, but by circumstances which he could not reasonably control, the Commissioner may within that time, in his discretion, grant relief against the forfeiture, and if he be granted such relief he shall at once forward his order to that effect to the surveyor, who shall file the same for record in his office.

Sec. 14. Whenever any application shall be made to buy or obtain title to any of the lands embraced in section 1 of this act, except where the application is made under this act, the applicant shall make oath that there is not, to the best of his knowledge and belief, any of the minerals embraced in this act thereon, and when the commissioner has any doubt in relation to the matter he shall forbear action until he is satisfied. Any such sale or disposition of said lands shall be understood to be, with the reservation of the minerals thereon, to be subject to location as herein provided.

Sec. 15. That claims usually called placers, including all forms of metallic deposits, excepting veins of quartz or rock in place, shall be subject to entry and patent under like circumstances and conditions and upon similar proceedings as are provided for vein or lode claims. All placer claims located shall conform as near as practicable with existing surveys and their subdivisions, and no such location shall include more than forty acres for each individual claimant, and shall not exceed three hundred and twenty acres for any association of persons. The price which shall be paid for such placer shall not be less than ten dollars per acre, together with all costs of proceedings as before provided.

Sec. 16. Where non-mineral land not contiguous to the vein or lode is issued by the prospector of such vein or lode for mining or milling purposes, such non-adjacent surface ground may be embraced and included in an application for a patent for such vein or lode, and the same may be patented therewith, subject to the same preliminary requirements as to survey and notice as are applicable to veins or lodes; but no location of such non-adjacent lands shall exceed ten acres, and payment for the same must be made at the same rate as fixed by this act for the superficies of the lode. The owner of a quartz mill or reduction works, not owning a mine in connection therewith, may also receive a patent for a mill site, as provided in this section.

Sec. 17. Any owner or worker of mining claim under this act is authorized to fell and remove for building and mining purposes any timber or any tree growing or being upon unoccupied lands as described in section 1, said lands being mineral and subject to entry only as mineral lands, under such rules and regulations as may be prescribed for the protection of timber and undergrowth upon such lands, and for other purposes.

Sec. 18. Nothing in this act shall ever be so construed as to either destroy, invalidate or impair any valid claim, right or interest existing in, to or concerning any lands whatever at the passage of this act, of any pre-emptor, purchaser, claimant, actual settler, locator or other person whatsoever.

Sec. 19. The net proceeds of all sales of mining lands under the provisions of this act shall inure to the benefit of the State and the respective funds for which the lands mentioned in section 1 of this act are now set apart under the Constitution and laws of the State, and it shall be the duty of the Comptroller, State Treasurer and Commissioner of the General Land Office to see to it and have said proceeds so paid rightly placed to the credit of the particular and proper fund.

Sec. 20. For the purpose of effectually carrying out the provisions of this act all county or district surveyors are hereby especially authorized and empowered to administer oaths, take affidavits and make certificates thereof: Provided, further, that all laws and parts of laws in conflict with this act, or any part thereof, are hereby especially repealed.

Sec. 21. The mining interests of the State are great and important, and there are no general laws free from doubt and uncertainty regulating in an adequate, general and just manner the mining interest of the whole State; therefore, an imperative public necessity and emergency exists for the passage of this act; therefore, it is enacted that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 30th day of April, A. D. 1895, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

ROADS—FANNIN, KAUFMAN AND ROBERTSON.

CHAP. 128.—[H. B. No. 20.] An act to create a more efficient road system for Fannin, Kaufman and Robertson counties, Texas, and making county commissioners of said counties ex officio road commissioners, and prescribing their duties as such, and providing for their compensation as road commissioners, and providing for the appointment of deputy road commissioners, and defining the powers and duties of such county commissioners, and providing for the appointment of road overseers, and defining their duties, and for the working of county convicts upon the public roads of said counties, and providing for officers' fees and rewards for the capture of escaped convicts, and to provide for the manner of training hedges along any public road, and to provide for the summoning of teams for road work, and for an allowance of time of road service for same, and fixing a penalty for a violation of this act, and repeal all laws in conflict with this act.

Section 1. Be it enacted by the Legislature of the State of Texas: That the members of the commissioners courts of Fannin, Kaufman and Robertson counties shall be ex officio road commissioners of their respective districts, and under the direction of the commissioners courts shall have charge of all the teams, tools and machinery belonging to the county, and placed in their hands by said counties, and it shall be their duty, under such rules and regulations as the commissioners courts may prescribe, to superintend the laying out of new roads, the making or changing of roads, and the building of bridges. Each of said commissioners shall, before entering upon the duties of his office, in addition to his regular bond as such county commissioner, execute a bond of one thousand dollars, with two or more good and sufficient sureties, payable to the county judges of said counties for the use and benefit of the road and bridge fund, conditioned that they will perform all the duties required of them by law, or by the commissioners court, and that they will account for all money or property belonging to the county that may come into their possession: Provided, that with the consent of the commissioners court any one of said commissioners shall be allowed to appoint any competent person as deputy road commissioner, who shall be required to execute the same bond that is required of commissioners in this section; and such deputy road commissioners shall be entitled to the same compensation that is allowed county commissioners for same service: Provided, that county commissioners shall not be allowed any compensation as road commissioners when a deputy road commissioner has been appointed.

Sec. 2. The commissioners court of said counties shall have full power and authority, and it shall be its duty, to adopt such system for working, laying out, draining and repairing the public roads in said counties as it may deem best, and from time to time said court may change its plan or system of working. Said commissioners court shall have power to purchase such teams, tools and machinery as may be necessary for the working of its roads. Said court shall have the power to construct, grade, or otherwise improve any road or bridge by contract. In such case said court, or the county judge, may advertise in such manner as said court may determine for bids to do such work, and the contract shall be awarded to the lowest responsible bidder, who shall enter into bond, payable to the county judges of said counties for the use of the road and bridge fund, with good, sufficient sureties, to be approved by said court, and in such

sum as said court may determine, for the faithful compliance with the terms of said contract; but said court shall have the right to reject any and all bids. At the time of making such contract, the court shall direct the county treasurer to pass the amount to a particular fund for that purpose, and the treasurer shall keep a separate account of such funds, and the same shall not be used for any other purpose, and can only be paid out on the order of said court; and the said court shall have authority to employ any hands or teams to work on the roads, under such regulations and for such price as they may deem best.

Sec. 3. The commissioners court of said counties shall require all county convicts, not otherwise employed, to labor upon the public roads under such regulations as they may prescribe, and each convict so worked shall receive a credit of fifty cents on his fine first, and then on the cost, for each day he may labor. Such commissioners courts may provide such reasonable regulations and punishments as may be necessary to require such convicts to perform good work; and may provide a reward not exceeding ten dollars, to be paid out of the road and bridge fund, for the recapture and delivery of any escaped convict, to be paid to any person, other than the guard or person in charge of such convict at the time of his escape, which reward shall be taxed against such convict and worked out or paid by him as a part of the cost. The commissioners court may grant a reasonable commutation of time for which a convict is committed as a reward for faithful services and good behavior, in no case to exceed one-tenth of the whole time. Said court may provide the necessary houses, prisons, clothing, bedding, food, medicine, medical attention, and guards for the safe and humane keeping of convicts. The commissioners court may at a regular term allow to the officers and witnesses such amount of their cost for the arrest and conviction of said convict as it may deem best: Provided, that it shall not allow to any officer an amount greater than the following: County attorney, five dollars, including commissions; county clerks and justices of the peace, including commissions, one dollar and seventy cents; sheriffs or constables, five dollars; which amount shall be paid to the officers out of the road and bridge fund, upon the order of said court, when said fine and costs have been worked out as provided in this section: Provided, that this shall not be construed as to relieve any convict from the payment of all costs for which he would be liable under the general laws of this State.

Sec. 4. Each county commissioner shall have control of all road overseers in his district, and shall deliver to each of them all teams, tools and machinery necessary in working the roads in the district of said overseer, so far as has been supplied therewith by the commissioners court, taking receipt of said overseer therefor, specifying each item and giving its value, which receipt shall be a full answer of the liability of the commissioner, and shall fix the liability of the overseer; and any commissioner or overseer who shall have been entrusted with any teams, tools or machinery belonging to said county shall be liable for any damages that may occur to the same while in his possession caused by his negligence or want of due care of same, and shall not use or permit the same to be used for private purposes without the consent of the commissioners court. It shall be the duty of the road overseer when he has finished work on his roads to return to said commissioner all teams, tools and machinery received from him and take up the receipt given therefor.

Sec. 5. It shall be the duty of the county commissioner when acting as road commissioner to inform himself of the condition of the public roads of his district, and shall determine what character of work shall be done upon said roads, and shall direct the manner of grading, draining or otherwise improving the same, which direction shall be observed and obeyed by all road overseers of his district.

Sec. 6. The commissioners may require each road overseer in his district to call out the hands in such numbers as may be sufficient to perform the work, but no road hand shall be required to work exceeding five days in any one year, or two days with himself and team, unless the term of service as prescribed by the general laws shall be extended beyond that time: And provided, that all road hands in any particular district shall, as far as practicable, be worked a uniform time. Each road overseer, or in case of his absence any person deputized by him, shall have full control of all road hands within his road district, and shall see that each hand when called out shall perform a good day's work; and if any hand when so called out shall fail or refuse to perform a good day's work or to work in the manner the overseer may direct, he shall be liable to the same penalty as if he had failed to appear in obedience to the summons. The commissioners court may allow any overseer who shall be engaged in the discharge of the duties of his office for more than five days during any one year a compensation not to exceed one dollar and fifty cents per day for the time so served.

Sec. 7. Any citizen of Fannin, Kaufman or Robertson counties liable for road duty who shall on or before the first day of January of each year pay to the county treasurer the sum of three dollars shall be exempt from road duty for such year beginning on the first day of January. The treasurer shall receive and receipt for all money so paid him, and place the same to the credit of the road and bridge fund, and shall keep a separate account for each road district from which it is received. The treasurer shall on the third day of January, or as soon thereafter as practicable, furnish to each county commissioner a list of all persons in their respective districts that have paid said sum as provided in this section.

Sec. 8. Every person liable to work on roads, by paying to his road overseer at any time before the day appointed to work on his road, the sum of one dollar for each day that he is summoned to work, and one dollar and fifty cents for each day he is summoned to furnish his team for road work, shall be exempt from working or furnishing his team for each day paid for, and also exempt from any penalties for failure to work or furnish such teams for the time for which he had so paid.

Sec. 9. Each person summoned to work on a road shall take with him an axe, hoe, pick, spade, plow, scraper or such other tool as may be desired and directed by the overseer, or if he has no such tools as are desired and directed by the overseer to take with him, he shall take such other suitable tool as he may have: Provided, the county shall be liable for, and the commissioners court, under such regulations as they may prescribe, shall pay for all such breakage or damage to such tools as may have resulted from public road work and not caused by the negligence of the person furnishing the same. Such overseer may also summon and require such road hand to bring with him for public road work such team or teams as he may have on hand suitable for road work: Pro-

vided, such hand shall be allowed two and one-half days' time for each day put in by a hand with his team, and one and one-half days' time for his team without such hand.

Sec. 10. If any person liable to work upon the public roads after being legally summoned shall intentionally fail or refuse to attend either in person or by able and competent substitute, or fail or refuse to furnish his team or tools at the time and place designated by the person summoning him, or to pay to such overseer the sum of one dollar for each day he may have been notified to work on the road, or to pay to such overseer the sum of one dollar and fifty cents for each day he may have been notified to furnish his team for road work; or, having attended, shall fail to perform good service or any other duty required of him by law or the person under whom he may work, shall be deemed guilty of a misdemeanor, and on conviction thereof fined in any sum not exceeding ten dollars.

Sec. 11. At the regular term of the commissioners court in November of each year all road overseers shall make their reports under oath, upon forms to be furnished them by said court, which said report shall be examined by said court, and all accounts for services or labor performed for overwork by such overseer during the past year, and of moneys had and expended by him, shall be audited and settled; and as soon thereafter as practicable said commissioners court shall appoint and commission road overseers for the succeeding year. Any overseer intentionally failing to perform his duties as such overseer, or failing or refusing to make his report as required by law, or failing or refusing to serve and perform the duties of overseer when appointed by said court, or to perform any other duty required of him by law or by the commissioners court or by the commissioner of his district, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not exceeding twenty-five dollars.

Sec. 12. Whenever it shall be necessary to occupy any land for the opening, widening, straightening or draining any road or part thereof, if the owner of such land and the county commissioners court cannot agree upon the damage to be paid, the county may proceed to condemn the same in the same manner that a railroad company can condemn land for right of way, and the same proceedings may be had and the same right shall exist to each party as would exist if the proceedings were by a railroad company, except that the county shall in no case be required to give bond.

Sec. 13. Every owner of a farm or other lands upon which a hedge of any description grows on or near the public road shall be required to keep the same trimmed so that the same shall not obstruct said road; and any such owner who shall fail or neglect to so trim such hedge shall be notified in writing by the road overseer of that district to trim such hedge as herein required; and in such case if such owner shall, after receiving such notice, fail or refuse to trim such hedge within a reasonable time, he shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not exceeding twenty dollars per week from and after the time that he receives such notice, such fine to be paid into the county treasury and to be placed to the credit of the road and bridge fund of said county. If any owner of any farm shall fail or refuse, after being notified as herein required, to trim his hedge as required by this

act, then the road overseer shall cause the same to be trimmed in accordance with the provisions of this act, to be paid for out of the road and bridge fund of the county.

Sec. 14. Each county commissioner when acting as road commissioner and performing the duties imposed upon him by law, or by the commissioners court, shall be entitled to two dollars per day for the services actually performed: Provided, said sum to be paid him shall not exceed ninety dollars per quarter, which amount shall be paid out of the road and bridge fund when the account shall have been approved by the commissioners court; and the court shall not approve said account unless the commissioner presenting it shall sign an oath that the account is just, due and unpaid, and specifying the number of days actually performed by him, and that it was necessary to be done; and no commissioner shall be entitled to pay as road commissioner either for himself or for his deputy while he is performing the duties of county commissioner, nor shall he receive any additional pay than that provided by this section for inspecting or riding over his road or for other road service.

Sec. 15. This act shall be taken notice of by all courts in the same manner as the general law of the State, and it shall be construed to be cumulative of all general laws of the State on the subject of roads and bridges when not in conflict therewith; but in case of conflict, this act shall control as to the counties of Fannin, Kaufman and Robertson.

Sec. 16. The fact that there is now no sufficient general road law in force in this State, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 4th day of February, A. D. 1895, but was not signed by him, nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

ROADS—CHEROKEE, HOUSTON, ANDERSON, TRINITY,
FRANKLIN, DELTA, HARRISON, PANOLA, UPSHUR,
SHELBY AND SMITH.

CHAP. 129.—[H. B. No. 147.] An act to amend section 53, chapter 51, of an act entitled "An act to create a more efficient road system in the counties of Cherokee, Houston, Anderson, Trinity, Franklin, Delta, Harrison, Panola, Upshur, Shelby and Smith, and auxiliary thereto to provide for the appointment of road overseers; to define the power and jurisdiction of the commissioners courts of said counties with regard thereto; to utilize the labor of defaulting poll tax payers on the public roads of said counties; and to provide adequate penalties for the violation of the provisions of this act," as passed by the Twenty-third Legislature, and approved April 19, 1893, and declaring an emergency.

Section 1. Be it enacted by the Legislature of the State of Texas: That section 53 of an act entitled "An act to create a more efficient road system in the counties of Cherokee, Houston, Anderson, Trinity, Franklin,

Delta, Harrison, Panola, Upshur, Shelby and Smith, and auxiliary thereto to provide for the appointment of road overseers; to define the powers and jurisdiction of the commissioners courts of said counties with regard thereto; to utilize the labor of defaulting poll tax payers on the public roads of said counties; and to provide adequate penalties for the violation of the provisions of this act," passed by the Twenty-third Legislature of the State of Texas, and approved April 19, 1893, be so amended as to hereafter read as follows:

Section 53. No person who under the provisions of this act is subject to road duty in the counties of Cherokee, Houston, Anderson, Franklin, Delta, Harrison, Panola, Upshur, Shelby and Smith shall be compelled to work on any public road or roads more than ten days in each year: Provided, that no person under the provisions of this act who is subject to road duty in the counties of Trinity, Cherokee, Franklin and Delta shall be compelled to work on any public road or roads more than five days in each year.

Sec. 2. The vast amount of important business pending, and the fact that the people of Trinity county are now burdened with an unnecessary and onerous public road duty, and the fact that it will likely be impossible to reach this bill in regular order, creates an emergency and an imperative public necessity exists that the constitutional rule requiring bills to be read on three several days be and the same is hereby suspended, and that this act take effect from and after its passage, and it is so enacted.

Approved February 15, 1895.

ROADS—PARKER COUNTY.

CHAP. 130.—[H. B. No. 487.] An act to create a more efficient road system for Parker county, Texas, and making county commissioners of said county *ex officio* road commissioners, and prescribing their duties as such, and providing for their compensation as road commissioners, and defining the duties and powers of such county commissioners, and providing for the appointment of road overseers, and defining their duties, and for the working of county convicts upon the public roads of said county; and providing officers' fees; and to provide for the payment for teams to work on roads, and allowance for time of service for same on public roads in Parker county; and fixing a penalty for violation of this act; and repeal all laws in conflict with this act as to Parker county.

Section 1. Be it enacted by the Legislature of the State of Texas: That each member of the commissioners court of Parker county shall be *ex officio* road commissioners of their respective districts, and under the direction of the commissioners court of said county shall have charge of all teams, tools and implements belonging to said county and placed in their hands by said court; and it shall be their duty, under such rules and regulations as the commissioners court may prescribe, to superintend the laying out of new roads, the making or changing of roads, and the building of bridges. Each of the commissioners shall, before entering upon the duties of his office, execute a bond of seven hundred dollars, with two or more good and sufficient sureties, payable to the county

judge, or his successor, of said county, for the use and benefit of the road and bridge fund, conditioned that they will perform all the duties required of them by law, or by the commissioners court, and that they will account for all property belonging to the county that may come into their possession. That with the consent of the commissioners court any one of said commissioners shall be allowed to appoint any competent person as deputy road commissioner, who shall be required to execute the same bond that is required of commissioners in this section, and such deputy road commissioner shall receive any amount agreed upon by the commissioners court, not to exceed two dollars per day: Provided, that county commissioners shall not be allowed any compensation as road commissioners when a deputy road commissioner has been appointed.

Sec. 2. The commissioners court of said county shall have full power and authority, and it shall be their duty, to adopt such system for working, laying out, draining and repairing the public roads in said county as they may deem best, and from time to time said court may change its plans or system of working said roads; said court shall have power to purchase such teams, tools and implements as may be necessary for the working of said roads; such court shall have the power to construct, grade or otherwise improve any road or bridge by contract. In such case said court, or the county judge by the authority of the commissioners court, may advertise in such manner as the court may determine for bids to do such work, and the contract shall be awarded to the lowest responsible bidder, who shall enter into bond payable to the county judge and his successors in office of said county, for the use of the road and bridge fund, with good and sufficient sureties, to be approved by said court, and in such sum as said court may determine, for the faithful compliance with the terms of said contract; but the court shall reserve the right to reject any and all bids. At the time of making the said contract, the commissioners court shall direct the county treasurer to place the amount to a particular fund for that purpose, and the treasurer shall keep a separate account of such fund, and the same shall not be used for any other purpose, and can only be paid out on the order of said court; and the said court shall have the power to employ any hands or teams to work on the roads in said county under such regulations and for such price as they may deem it to the best interest of said county, not to exceed two dollars and fifty cents per day, of ten hours per day, for a team and driver, and not to exceed one dollar and twenty-five cents per day for day hands; and no road hand when working out his time on the road shall be required to work but eight hours per day, but when hands are hired by the day they shall be required to work ten hours per day.

Sec. 3. The commissioners of said county may require all county convicts of said county, not otherwise employed, to labor on the public roads under such regulations as said court may prescribe; and each convict so worked shall receive a credit of fifty cents on his fine first, and then on the cost, of each day that he may labor. The commissioners may at a regular term allow to the officers such amount of their costs for the arrest and conviction of said convicts as it may deem best: Provided, that it shall not allow to any officer an amount greater than the following: The county attorney, five dollars, including commissions; county clerk and justice of the peace, one dollar and seventy cents; sheriffs or constables, two dollars; which amount shall be paid out of the road and

bridge fund on the warrant allowed by the commissioners court, when said fine and costs shall have been worked out as provided for in this section: Provided, that this shall not be construed so as to relieve any convict from the payment of all costs for which he would be liable under the general laws of this State. The commissioners court may grant a reasonable commutation of time for which a convict is committed as a reward for good behavior and faithful service: Provided, that such commutation shall in no case exceed one-tenth of the whole time. The commissioners court may provide the necessary houses, prisons, clothing, bedding, food, medicine, medical attention and guards for the safe and humane treatment of convicts.

Sec. 4. It shall be the duty of the county commissioners when acting as road commissioners to inform themselves of the condition of the public roads in their districts, and shall determine what character of work shall be done upon said roads, and shall direct the manner of grading, draining, or otherwise improving the same, which directions shall be observed and obeyed by all overseers of his district.

Sec. 5. The commissioners may require each road overseer in his district to call out the hands in such numbers as may be sufficient to perform the work necessary: Provided, no road hand shall be required to work more than five days in any one year: And provided, that all road hands in a particular district shall, as far as practicable, be worked a uniform time. Each road overseer shall have full control of all road hands within his road district, and he shall see that each hand when called out shall perform a good day's work; and if any hand so called out shall fail or refuse to perform a good day's work, or to work in the manner the overseer may direct, he shall be liable to the same penalty as if he had failed to appear in obedience to the summons. The commissioners court may allow any overseer who shall be engaged in the discharge of the duties of his office for more than five days during any one year a compensation not to exceed one dollar per day for the time he may serve over five days.

Sec. 6. Every person liable to work on public roads in Parker county who shall pay to his road overseer at any time before the day appointed to work on his road the sum of one dollar for each day that he is summoned to work shall be exempt from work for each day paid for.

Sec. 7. Each person summoned to work on a road shall take with him an axe, hoe, pick, spade or such tool as he is desired and directed by the overseer, or if he has no such tool as may be desired and directed by the overseer to take with him, he shall take such other suitable tool as he may have; and any person furnishing a team to work on the county roads of Parker county shall receive a credit of two days work for each day that said team shall be furnished. The county shall be liable for, and the commissioners court, under such regulations as they may prescribe, shall pay for, all damage done to tools while being used on said roads for public road work not caused by the negligence of the party furnishing same.

Sec. 8. If any person liable to work upon the public roads, after being legally summoned, shall intentionally fail or refuse to attend either in person or by able and competent substitute, or fail or refuse to furnish his tools at the time and place designated by the person summoning him, or to pay to the overseer such sum as one dollar per day for each day summoned to work, he shall be deemed guilty of a misdemeanor, and on conviction thereof he shall be fined in any sum not to exceed ten dollars.

Sec. 9. At the regular term in November of the commissioners court each year, all road overseers of Parker county shall make their reports, upon forms to be furnished them by the commissioners court. Said reports shall state the condition of their roads, number of hands and the name of each hand subject to road work, and the number of days that each hand has worked, amount of all money collected and expended; and if there is a balance on hand it shall be turned over to his successor in office, to be paid out for work on said road. Said reports shall be sworn to before some officer authorized to administer oaths. Said reports shall be examined by the commissioners court, and if they be found correct shall be approved by said court, and as soon thereafter as practicable the said court shall appoint and commission road overseers for the succeeding year. Any overseer intentionally failing to perform his duties as such overseer, or failing or refusing to make his report as required by law, or failing or refusing to serve and perform the duties of overseer when appointed by said court, or failing to comply with the law in any way concerning his duties as overseer, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than ten nor more than twenty-five dollars.

Sec. 10. Whenever it shall be necessary to occupy any land for the opening, widening, straightening or draining any road or part thereof, if the owner of said land cannot agree with the courts as to damages to be paid, the court may proceed to condemn the same in the same manner that a railroad company can condemn land for right of way, and the same proceedings may be had and the same right shall exist to each party that would exist if the proceedings were by a railroad company, except that the county shall in no case be required to give bond.

Sec. 11. Each county commissioner when acting as road commissioner shall be entitled to two dollars per day for services actually performed: Provided, that he shall not receive more than one hundred and fifty dollars for any one year; said amount to be paid out of the road and bridge fund, when the account shall have been approved by the commissioners court, and the court shall not approve said account unless the commissioner presenting it shall sign an oath that the account is just, due and unpaid; and said account shall specify the number of days' work actually performed by him; and no commissioner shall be entitled to pay as road commissioner for the days that he is performing the duties of county commissioner; nor shall he be allowed pay for any other road service, except as herein provided for. Neither shall he be required to inspect the roads as heretofore provided by law.

Sec. 12. This act shall be cumulative of all general laws on this subject, and be taken notice of by all courts in the same manner as the general laws of the State on the subject of roads and bridges, when not in conflict therewith; but in case of conflict this act shall control as to Parker county, and all laws conflicting herewith are hereby repealed.

Sec. 13. The fact that there is now no sufficient general road law in force in this State creates an emergency and imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 7th day of March, A. D. 1895, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

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ROADS — CHEROKEE, HOUSTON, ANDERSON, TRINITY, FRANKLIN, DELTA, HARRISON, PANOLA, UPSHUR, SHELBY, SMITH AND RUSK, AND AUXILIARY THERETO, ETC.

CHAP. 131.—[H. B. No. 413.] An act to amend chapter 51, section 1, section 2, section 33, section 53, and section 54 of the acts of the Twenty-third Legislature, entitled "An act to create a more efficient road system in the counties of Cherokee, Houston, Anderson, Trinity, Franklin, Delta, Harrison, Panola, Upshur, Shelby, Smith and Rusk, and auxiliary thereto," etc.

Section 1. Be it enacted by the Legislature of the State of Texas: That chapter 51, section 1, section 2, section 33, section 53, and section 54 of the acts of the Twenty-third Legislature be so amended as to read as follows:

Section 1. That all public roads and highways that have heretofore been laid out and established, agreeable to law, in Cherokee, Houston, Anderson, Trinity, Franklin, Delta, Upshur, Smith and Rusk counties, except such as have been discontinued, are hereby declared to be public roads.

Section 2. The commissioners courts of Cherokee, Houston, Anderson, Trinity, Franklin, Delta, Upshur, Harrison, Panola, Shelby, Smith and Rusk counties shall have the full power and it shall be their duty to order the laying out and opening of public roads when necessary, and to discontinue or alter any road whenever it shall be deemed expedient, as hereinafter prescribed.

Section 33. The commissioners courts of Cherokee, Houston, Anderson, Trinity, Franklin, Delta, Upshur, Smith and Rusk counties shall lay off the counties into convenient road precincts, and shall number each road precinct, and in the order establishing the same shall specify as definitely as practicable the boundaries thereof.

Section 53. No person shall be compelled to work on any public road or roads more than ten days in each year: Provided, that no person in Rusk, Trinity, Delta and Franklin counties shall be compelled to work more than five days in each year on any public road or roads.

Section 54. That all of section 54 is hereby repealed.

Sec. 2. Whereas, the above counties are virtually without a road law, and the great amount of business now pending creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this bill be placed on its third reading without so reading, and this act take effect from and after its passage, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 29th day of April, A. D. 1895, but was not

signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

ROADS—DALLAS, LAMAR AND MEDINA COUNTIES.

CHAP. 132.—[H. B. No. 283.] An act to create a more efficient road system for Dallas, Lamar and Medina counties, Texas, and making county commissioners of said counties ex officio road commissioners, and prescribing their duties as such, and providing for their compensation as road commissioners, and defining the duties and powers of such county commissioners, and providing for the appointment of road overseers and defining their duties, and for the working of county convicts upon the public roads of said counties, and providing for officers' fees, and to provide for the summoning of teams for roads and allowance of time of service for same on roads, and fixing a penalty for violation of this act, and to repeal all laws in conflict with this act.

Section 1. Be it enacted by the Legislature of the State of Texas: That each member of the commissioners courts of Dallas, Lamar and Medina counties shall be ex officio road commissioner of his respective district, and under the direction of the commissioners court of his county shall have charge of all the teams, tools and implements belonging to said county and placed in his hands by said court, and it shall be his duty, under such rules and regulations as the commissioners court may prescribe, to superintend the laying out of new roads, the making or changing of roads, and the building of bridges. Each of the commissioners shall before entering upon the duties of his office execute a bond of one thousand dollars, with two or more good and sufficient sureties, payable to the county judges or their successors of said counties, for the use and benefit of the road and bridge fund, conditioned that he will perform all the duties required of him by law or by the commissioners court, and that he will account for all property belonging to the county that may come into his possession.

Sec. 2. The commissioners courts of said counties have full power and authority, and it shall be their duty, to adopt such system for working, laying out, draining and repairing the public roads in said counties as they may deem best, and from time to time said court may change its plans or system of working said roads; said court shall have power to purchase such teams, tools and implements as may be necessary for the working of said roads; such court shall have the power to construct, grade or otherwise improve any road or bridge by contract; in such case said court, or the county judge by the authority of the commissioners court, may advertise, in such manner as the court may determine, for bids to do such work, and the contract shall be awarded to the lowest responsible bidder, who shall enter into bond payable to the county judge and his successors in office of said counties, for the use of the road and bridge fund, with good and sufficient sureties, to be approved by said court and in such sum as said court may determine, for the faithful compliance with the terms of said contract; but the said court shall reserve the right to reject any and all bids. At the time of making said contract the commissioners court shall direct the county treasurer to place the

amount to a particular fund for that purpose, and the treasurer shall keep a separate account of such fund and the same shall not be used for any other purpose, and can only be paid out on the order of said court; and the said court shall have the power to employ any hands or teams to work on the roads in said counties, under such regulations and for such price as they may deem is to the best interest of said counties.

Sec. 3. The commissioners of said counties shall require all county convicts of said counties not otherwise employed to labor on the public roads, under such regulations as said court may prescribe; and each convict so worked shall receive a credit of fifty cents on his fine first, and then on the cost, of each day that he may labor. The commissioners may at a regular term allow to the officers such amount of their cost for the arrest and conviction of said convicts as now provided by law, which amount shall be paid out of the road and bridge fund on the warrant of the commissioners, when said fine and cost shall have been worked out as provided for in this section: Provided, that this shall not be construed so as to relieve any convict from the payment of all cost for which he would be liable under the general laws of this State. The commissioners court may grant a reasonable commutation of time for which a convict is committed as a reward for good behavior and faithful service: Provided, that such commutation shall in no case exceed one-tenth of the whole time. The commissioners court may provide the necessary houses, prisons, clothing, bedding, food, medicine, medical attention and guards for the safe and humane treatment of convicts.

Sec. 4. It shall be the duty of the county commissioners when acting as road commissioners to inform themselves of the condition of the public roads in their districts, and they shall determine what character of work shall be done upon said roads, and shall direct the manner of grading, draining or otherwise improving the same, which directions shall be observed and obeyed by all overseers of his district.

Sec. 5. The commissioners may require each overseer in his district to call out the hands in such numbers as may be sufficient to perform the work necessary: Provided, no road hand shall be required to work more than five days in any one year: And provided, that all road hands in a particular district shall, as far as practicable, be worked a uniform time. Each road overseer shall have full control of all road hands within his road district, and he shall see that each hand when called out shall perform a good day's work; and if any hand so called out shall fail or refuse to perform a reasonable day's work, or to work in the manner the overseer may direct, he shall be liable to the same penalty as if he had failed to appear in obedience to the summons.

Sec. 6. Any citizen of Dallas, Lamar or Medina county who is subject to road duty who shall, on or before the first day of January of any year, pay to the county treasurer of his county the sum of three dollars shall be exempt from road duty for such year, beginning on the first day of January. The treasurer shall receive and receipt for all money so paid him, and place the same to the credit of the road and bridge fund. The treasurer shall, on the third day of January, or as soon thereafter as practicable, furnish the commissioners court with a list of all parties who have paid said sum as is provided in this section.

Sec. 7. Every person liable to work on public roads in Dallas, Lamar or Medina counties who shall pay to his road overseer, at any time before

the day appointed to work on his road, the sum of one dollar for each day that he is summoned to work shall be exempt from work for each day paid for.

Sec. 8. Each person summoned to work on a road shall take with him an axe, scraper, plow or team, as the overseer may direct; and any person furnishing a team to work on the county roads in Dallas, Lamar, or Medina counties, shall receive a credit of two day's work for each day that said team shall be furnished. The county shall be liable for, and the commissioners court, under such regulations as they may prescribe, shall pay for all damage done to tools while being used on said roads for public work.

Sec. 9. If any person liable to work upon the public road, after being legally summoned, shall intentionally fail or refuse to attend either in person or by able and competent substitute, or fail or refuse to furnish his team or tools at the time and place designated by the person summoning him, or to pay to the overseer such sum as one dollar per day for each day summoned to work, he shall be deemed guilty of a misdemeanor, and on conviction thereof he shall be fined in any sum not to exceed ten dollars.

Sec. 10. At the regular term in November of the commissioners court each year, all road overseers of Dallas, Lamar and Medina counties shall make their reports upon oath, upon forms to be furnished them by the commissioners court. Said reports shall state the condition of their roads, number of hands, and the name of each hand subject to road work, and the number of days that each hand has worked, amount of all money collected and expended, and if there is a balance on hand it shall be turned over to his successor in his office, to be paid out for work on said road; said report shall be sworn to before some officer authorized to administer oaths; said report shall be examined by the commissioners court, and if they be found correct shall be approved by said court; and as soon thereafter as practicable the said court shall appoint and commission road overseers for the succeeding year. Any overseer intentionally failing to perform his duties as such overseer, or failing or refusing to make his report as required by law, or failing or refusing to serve and perform the duties of overseer when appointed by said court, or failing to comply with the law in any way concerning his duties as overseer, shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not less than ten nor more than twenty-five dollars.

Sec. 11. Whenever it shall be necessary to occupy any land for the opening, widening, straightening or draining any road or part thereof, if the owner of said land can not agree with the court as to damages to be paid, the court may proceed to condemn the same in the same manner that a railroad company can condemn land for right of way, and the same proceedings may be had, and the same rights shall exist to each party that would exist if the proceedings were by a railroad company, except that the county shall in no case be required to give bond.

Sec. 12. Each county commissioner when acting as road commissioner shall be entitled to two dollars and one-half per day for services actually performed: Provided, that he shall not receive more than seventy-five dollars per quarter; said per diem to be paid out of the road and bridge fund when the account shall have been approved by the commissioners

court; and the court shall not approve said account unless the commissioner presenting it shall sign an oath that the account is just, due and unpaid; and said account shall specify the number of days' work actually performed by him, and no commissioner shall be entitled to pay as road commissioner while he is performing the duties of county commissioner.

Sec. 13. That all road funds raised by taxation be expended among the several commissioners districts in proportion to the amount of taxes paid by each district, except in district number one in Dallas county. That in district number one, that portion of the district exterior to the city limits be allowed the pro rata of the road funds which it has contributed by taxation. That the balance of the road funds contributed by taxation within the city limits be appropriated as follows: For the construction and repair of necessary bridges on permanent improvement for first class roads as hereafter provided for in the permanent construction and repair of main thoroughfare roads leading from the city limits to the county lines, the commissioners court to be governed in the selection of routes by the volume of population to be accommodated, donations of labor, money, material, etc., offered by the citizens and property owners of said roadway. That the county convicts shall be kept at work all the time upon four first class roads, beginning at the city limits, and extending as nearly as practicable north, south, east and west to the county lines, except in cases of emergency, when by an order of the commissioners court said convicts may be temporarily transferred to some other route or the county farm; Provided, further, that when said four roads have been put in first class condition, four other roads shall be selected by said court leading from the city limits to the county lines; each road to run as nearly as practicable centrally between two of the first four roads herein mentioned. That the roads to be built by the convict labor shall be macadamized, except in the black waxy neighborhoods, where material can not be had with reasonable convenience or reasonable expense, but at such points the roads must be permanently graded and thoroughly drained. That the assessor of taxes be required to prepare a tax roll for each commissioner's district separately, except district number one, for which he shall prepare two, one embracing all the property in the city, and the other embracing all the property in district number one outside of the city limits.

Sec. 14. In all cases where the cost of material and labor exceeds two hundred dollars it shall be the duty of said court to construct, grade or otherwise improve any road or bridge by contract, the same to be advertised for as provided for by said commissioners court.

Sec. 15. This act shall be taken notice of by all courts in the same manner as the general laws of the State on the subject of roads and bridges, when not in conflict therewith; but in case of conflict this act shall control as to Dallas, Lamar and Medina counties.

Sec. 16. The fact that there is now no sufficient general road law in force in this State creates an emergency and imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note—The foregoing act was presented to the Governor of Texas for his approval on the 12th day of April, A. D. 1895, but was not signed by

him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

ROADS—GUADALUPE COUNTY.

CHAP. 133.—[S. B. No. 207.] An act to amend sections 1 and 7 of chapter 62 of the acts of the Twenty-third Legislature of the State of Texas, approved April 28, 1893, and entitled "An act to create a more efficient road system in the county of Guadalupe; and auxiliary thereto to provide for the appointment of road overseers; to define the powers and jurisdiction of the commissioners court with regard thereto; to utilize the labor of county convicts and defaulting poll tax payers on the public roads of said county, and to provide adequate penalties for the violation of the provisions of this act."

Section 1. Be it enacted by the Legislature of the State of Texas: That sections 1 and 7 of chapter 62 of the acts of the Twenty-third Legislature of the State of Texas, approved April 28, 1893, be so amended as to hereafter read as follows, to-wit:

Section 1. That the county commissioners of Guadalupe county are ex officio road commissioners of said county and for their respective precincts, and may receive such compensation for their services as is provided for road overseers, and may as a court appoint a road overseer for each commissioner's precinct in the county, or for each justice's precinct, who shall hold their offices for two years and until their successors are qualified.

Section 7. The commissioners court may at any regular term allow the officers and witnesses in a convict case, where the convict is worked upon the road, such portions of their lawful costs as it may determine, not to exceed in any case the following: County attorneys, five dollars, including commissions; county clerks and justices of the peace, four dollars; sheriffs and constables, four dollars; witnesses, twenty-five per cent of their legal fees; and the county judge shall receive a fee of three dollars for each convict who is worked by the county; which allowance shall be paid out of the road and bridge fund upon the warrant of the county judge when said fine and costs shall have been worked out by the convicts as provided in this act. The commissioners court may provide the necessary houses, prisons, food, clothing, bedding, medicine, medical attention, guards necessary for safe keeping and humane treatment of such convicts, and grant a reasonable commutation of time to a convict in consideration of faithful service and good behavior, such commutation in no case to exceed one-tenth of the entire time.

Sec. 2. Owing to the fact that the calendar is now crowded with bills, and the present Legislature is near its close, creates an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect from and after its passage, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 18th day of April, A. D. 1895, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

ROADS—HILL, GRIMES, COOKE, HUNT, JACKSON, BEE,
AND VICTORIA COUNTIES.

CHAP. 134.—[H. B. No. 538.] An act to create a more efficient road system for Hill, Grimes, Cooke, Hunt, Jackson, Bee and Victoria counties, Texas, and making county commissioners of said counties ex officio road commissioners, and prescribing their duties as such, and providing for their compensation as road commissioners, and providing for the appointment of deputy road commissioners, and defining the powers and duties of such county commissioners, and providing for the appointment of road overseers, and defining their duties, and for the working of county convicts upon the public roads of said counties, and providing for officers' fees and rewards for the capture of escaped convicts, and to provide for the manner of training hedges along any public road, and to provide for the summoning of teams for road work, and for an allowance of time of road service for same, and fixing a penalty for a violation of this act, and repeal laws in conflict with this act.

Section 1. Be it enacted by the Legislature of the State of Texas: That each member of the commissioners courts of Hill, Grimes, Cooke, Hunt, Jackson, Bee and Victoria counties shall be ex officio commissioners of their respective districts, and under the direction of the commissioners courts shall have charge of all the teams, tools and machinery belonging to the county, and placed in their hands by said county, and it shall be their duty, under such rules and regulations as the commissioners court may prescribe, to superintend the laying out of new roads, the making or changing of roads, and the building of bridges. Each of said commissioners shall, before entering upon the duties of their office, in addition to their regular bond as such county commissioner, execute a bond of one thousand dollars, with two or more good and sufficient sureties, payable to the county judge of their county for the use and benefit of the road and bridge fund, conditioned that they will perform all the duties required of them by law, or by the commissioners court, and that they will account for all money or property belonging to the county that may come into their possession: Provided, that with the consent of the commissioners court any one of said commissioners shall be allowed to appoint any competent person as deputy road commissioner, who shall be required to execute the same bond that is required of commissioners in this section; and such deputy road commissioners shall be entitled to the same compensation that is allowed county commissioners for same service: Provided, that county commissioners shall not be allowed any compensation as road commissioners when a deputy road commissioner has been appointed.

Sec. 2. The commissioners court of said counties shall have full power and authority, and it shall be its duty, to adopt such system for working, laying out, draining and repairing the public roads in said counties as it may deem best, and from time to time said court may change its plan or system of working. Said commissioners court shall have power to purchase such teams, tools and machinery as may be necessary for the working of its roads. Said court shall have the power to construct, grade, or otherwise improve any road or bridge by contract. In such cases said court, or the county judge, may advertise in such manner as said court may determine for bids to do such work, and the contract shall be awarded to the lowest responsible bidder, who shall enter into bond, payable to the county judges of said county for the use of the road and bridge fund,

with good, sufficient sureties, to be approved by said court, and in such sum as said court may determine, for the faithful compliance with the terms of said contract; but said court shall have the right to reject any and all bids. At the time of making such contract, the court shall direct the county treasurer to pass the amount to a particular fund for that purpose, and the treasurer shall keep a separate account of such funds, and the same shall not be used for any other purpose, and can only be paid out on the order of said court; and the said court shall have authority to employ any hands or teams to work on the roads, under such regulations and for such price as they may deem best.

Sec. 3. The commissioners court of said counties shall require all county convicts, not otherwise employed, to labor upon the public roads under such regulations as they may prescribe, and each convict so worked shall receive a credit of fifty cents on his fine first, and then on the costs, for each day he may labor. Such commissioners courts may provide such reasonable regulations and punishments as may be necessary to require such convicts to perform good work; and may provide a reward not exceeding ten dollars, to be paid out of the road and bridge fund, for the recapture and delivery of any escaped convict, to be paid to any person, other than the guard or person in charge of such convict at the time of his escape, which reward shall be taxed against such convict and worked out or paid by him as a part of the cost. The commissioners court may grant a reasonable commutation of time for which a convict is committed as a reward for faithful services and good behavior, in no case to exceed one-tenth of the whole time. Said court may provide the necessary houses, prisons, clothing, bedding, food, medicine, medical attention, and guards for the safe and humane keeping of convicts. The commissioners court may at a regular term allow to the officers and witnesses such amount of their cost for the arrest and conviction of said convict as it may deem best: Provided, that it shall not allow to any officer an amount greater than the following: County attorney, five dollars, including commissions; county clerks and justices of the peace, including commissions, one dollar and seventy cents; sheriffs or constables, five dollars; which amount shall be paid to the officers out of the road and bridge fund, upon the order of said court, when said fine and costs have been worked out as provided in this section: Provided, that this shall not be construed as to relieve any convict from the payment of all costs for which he would be liable under the general laws of this State.

Sec. 4. Each county commissioner shall have control over all road overseers in his district, and shall deliver to each of them all teams, tools and machinery necessary in working the roads in the district of said overseer, so far as has been supplied therewith by the commissioners court, taking receipt of said overseer therefor, specifying each item and giving its value, which receipt shall be a full answer of the liability of the commissioner, and shall fix the liability of the overseer; and any commissioner or overseer who shall have been entrusted with any teams, tools or machinery belonging to said county shall be liable for any damages that may occur to the same while in his possession caused by his negligence or want of due care of same, and shall not use or permit the same to be used for private purposes without the consent of the commissioners court. It shall be the duty of the road overseer when he has finished work on

his roads to return to said commissioner all teams, tools and machinery received from him and take up the receipt given therefor.

Sec. 5. It shall be the duty of the county commissioner when acting as road commissioner to inform himself of the condition of the public roads of his district, and shall determine what character of work shall be done upon said roads, and shall direct the manner of grading, draining or otherwise improving the same, which direction shall be observed and obeyed by all road overseers of his district.

Sec. 6. The commissioners may require each road overseer in his district to call out the hands in such numbers as may be sufficient to perform the work, but no road hand shall be required to work exceeding five days in any one year, or two days with himself and team, unless the term of service as prescribed by the general laws shall be extended beyond that time: And provided, that all road hands in any particular district shall, as far as practicable, be worked a uniform time. Each road overseer, or in case of his absence any person deputed by him, shall have full control of all road hands within his road district, and shall see that each hand when called out shall perform a good day's work; and if any hand when so called out shall fail or refuse to perform a good day's work or to work in the manner the overseer may direct, he shall be liable to the same penalty as if he had failed to appear in obedience to the summons. The commissioners court may allow any overseer who shall be engaged in the discharge of the duties of his office for more than five days during any one year a compensation not to exceed one dollar and fifty cents per day for the time so served.

Sec. 7. Any citizen of Hill, Grimes, Cooke, Hunt, Jackson, Bee and Victoria counties liable for road duty who shall on or before the first day of January of each year pay to the county treasurer the sum of three dollars shall be exempt from road duty for such year beginning on the first day of January. The treasurer shall receive and receipt for all money so paid him, and place the same to the credit of the road and bridge fund, and shall keep a separate account for each road district from which it is received. The treasurer shall on the third day of January, or as soon thereafter as practicable, furnish to each county commissioner a list of all persons in their respective districts that have paid said sum as provided in this section.

Sec. 8. Every person liable to work on roads, by paying to his road overseer at any time before the day appointed to work on his road, the sum of one dollar for each day that he is summoned to work, and one dollar and fifty cents for each day he is summoned to furnish his team for road work, shall be exempt from working or furnishing his team for each day paid for, and also exempt from any penalties for failure to work or furnish such team for the time for which he had so paid.

Sec. 9. Each person summoned to work on a road shall take with him an axe, hoe, pick, spade, plow, scraper or such other tool as may be desired and directed by the overseer, or if he has no such tools as are desired and directed by the overseer to take with him, he shall take such other suitable tool as he may have. Provided, the county shall be liable for, and the commissioners court, under such regulations as they may prescribe, shall pay for all such breakage or damage to such tools as may have resulted from public road work and not caused by the negligence of the person furnishing the same. Such overseer may also summon and

require such road hand to bring with him for public road work such team or teams as he may have on hand suitable for road work: Provided, such hand shall be allowed two and one-half days' time for each day put in by a hand with his team, and one and one-half days' time for his team without such hand.

Sec. 10. If any person liable to work upon the public roads after being legally summoned shall intentionally fail or refuse to attend either in person or by able and competent substitute, or fail or refuse to furnish his team or tools at the time and place designated by the person summoning him, or to pay to such overseer the sum of one dollar for each day he may have been notified to work on the road, or to pay to such overseer the sum of one dollar and fifty cents for each day he may have been notified to furnish his team for road work; or, having attended, shall fail to perform good service or any other duty required of him by law or the person under whom he may work, shall be deemed guilty of a misdemeanor, and on conviction thereof fined in any sum not exceeding ten dollars.

Sec. 11. At the regular term of the commissioners court in November of each year all road overseers shall make their reports under oath, upon forms to be furnished them by said court, which said report shall be examined by said court, and all accounts for services or labor performed for overwork by such overseer during the past year, and of moneys had and expended by him, shall be audited and settled; and as soon thereafter as practicable said commissioners court shall appoint and commission road overseers for the succeeding year. Any road overseer intentionally failing to perform his duties as such overseer, or failing or refusing to make his report as required by law, or failing or refusing to serve and perform the duties of overseer when appointed by said court, or to perform any other duty required of him by law or by the commissioners court or by the commissioner of his district, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not exceeding twenty-five dollars.

Sec. 12. Whenever it shall be necessary to occupy any land for the opening, widening, straightening or draining any road or part thereof, if the owner of such land and the county commissioners court can not agree upon the damage to be paid, the county may proceed to condemn the same in the same manner that a railroad company can condemn land for right of way, and the same proceedings may be had and the same right shall exist to each party as would exist if the proceedings were by a railroad company, except that the county shall in no case be required to give bond.

Sec. 13. Every owner of a farm or other lands upon which a hedge of any description grows on or near the public road shall be required to keep the same trimmed so that the same shall not obstruct said road; and any such owner who shall fail or neglect to so trim such hedge shall be notified in writing by the road overseer of that district to trim such hedge as herein required; and in such case if such owner shall, after receiving such notice, fail or refuse to trim such hedge within a reasonable time, he shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not exceeding twenty dollars per week from and after the time that he received such notice, such fine to be paid into the county treasury and to be placed to the credit of the road and bridge

fund of said county. If any owner of any farm shall fail or refuse, after being notified as herein required, to trim his hedge as required by this act, then the road overseer shall cause the same to be trimmed in accordance with the provisions of this act, to be paid for out of the road and bridge fund of the county.

Sec. 14. Each county commissioner when acting as road commissioner and performing the duties imposed upon him by law, or by the commissioners court, shall be entitled to two dollars per day for the services actually performed: Provided, said sum to be paid him shall not exceed ninety dollars per quarter, which amount shall be paid out of the road and bridge fund when the account shall have been approved by the commissioners court; and the court shall not approve said account unless the commissioner presenting it shall sign an oath that the account is just, due and unpaid, and specifying the number of days actually performed by him, and that it was necessary to be done; and no commissioner shall be entitled to pay as road commissioner either for himself or for his deputy while he is performing the duties of county commissioner, nor shall he receive any additional pay than that provided by this section for inspecting or riding over his road or for other road service.

Sec. 15. This act shall be taken notice of by all courts in the same manner as the general law of the State, and it shall be construed to be cumulative of all general laws of the State on the subject of roads and bridges when not in conflict therewith; but in case of conflict, this act shall control as to the counties of Hill, Grimes, Cooke, Hunt, Jackson, Bee and Victoria.

Sec. 16. The fact that there is now no sufficient general road law in force in this State, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 9th day of March, A. D. 1895, but was not signed by him, nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

PUBLIC EDUCATION—TRANSFERRING CERTAIN COUNTIES FROM DISTRICT TO COMMUNITY SCHOOL SYSTEM.

CHAP. 135.—[H. B. No. 311.] An act to transfer Morris and other counties from the district school system to the community school system, and to authorize and empower said counties to organize and conduct all of their public free schools under the community system as provided by the laws now in force.

Section 1. Be it enacted by the Legislature of the State of Texas: That the following counties are hereby transferred from the district school system to the community school system, and are hereby authorized and empowered to organize and conduct all their free schools under the community school system, as provided by the laws now in force, to-wit:

Morris, Camp, DeWitt, Bowie, Duval, Fayette, Grimes, Victoria, Starr, Webb and Houston counties.

Sec. 2. Whereas, it is likely that a new scholastic year will be reached before ninety days after the adjournment of the Legislature, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and this act shall take effect and be in force from and after its passage, and it is so enacted.

Approved April 8, 1895.

GUARDIANS' BONDS.

CHAP. 136.—[S. B. No. 186.] An act to amend article 2519 of chapter 6, Revised Civil Statutes of the State of Texas, so as to compel county judges to require that the bonds of guardians be kept solvent, and prescribing their liability for negligence so to do.

Section 1. Be it enacted by the Legislature of the State of Texas: That chapter 6, article 2519, of the Civil Statutes of the State of Texas, be so amended as to read as follows:

The bond of the guardian of the estate of a ward shall be in amount equal to double the estimated value of the property belonging to such estate, payable to the county judge of the county where such guardianship is pending and to be approved by such county judge, conditioned that such guardian will faithfully discharge the duties of guardian of the estate of such ward according to law; and it shall be the duty of such county judge to annually examine into the condition of the estate of the ward and the solvency of such guardian's bond, and to require such guardian at any time it may appear that such bond is not ample security to protect such estate and the interests of his ward, to execute another bond in accordance with law. And in such case he shall notify the guardian as in other cases; and should damage or loss result to the estate of any ward through the negligence of such county judge to perform the duties herein prescribed, such county judge shall be liable on his official bond, payable to such ward, an amount equal to his loss due to such negligence.

Sec. 2. Whereas, the estates of minors is now involved in the immediate passage of this bill; therefore, an emergency exists that the constitutional rule requiring this bill to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing is a true copy of Senate bill No. 186 as it was enacted and became a law, as appears from the Journals of both houses of the Legislature. The enrolled bill was filed in the Department of State on May 8th, 1895; became a law without the signature of the Governor and was so indorsed, and has since been lost or abstracted from this office.—Allison Mayfield, Secretary of State.]

RESOLUTIONS.

CONCURRENT RESOLUTION.

House Concurrent Resolution No. 11.

Whereas, the drouth which has prevailed for the last three or four years, the shortage in crops, the low prices for cotton and other farm products, and the general financial depression has rendered many of the purchasers and settlers of the public free school, the university and the several asylum lands unable to meet their obligations therefor; and,

Whereas, there are now about 3600 claims and accounts of such purchasers which have been or are about to be forfeited for the non-payment of interest; and,

Whereas, such forfeitures will render homeless and penniless many of such purchasers, and will thereby work a hardship and produce great trouble and distress upon them and their families; therefore, be it

Resolved by the House of Representatives, the Senate concurring: That the Commissioner of the General Land Office do, and he is hereby instructed to, withhold and suspend the forfeiture of all such lands sold under the acts of 1887 and subsequent acts thereto, until further legislation is had upon such land matters by the Legislature now in session, or until the close of said session, and the State Treasurer is hereby instructed to receive interest and principal payments upon such lands under the rules of law regulating such payments for and during said time.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 6th day of February, A. D. 1895, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

CONCURRENT RESOLUTION.

House Concurrent Resolution No. 25.

Whereas, Lieutenant Robert J. Lambert, of Company B, Fourth Texas Infantry, Hood's Brigade, fell at Gaines' Mill, Va., June 27, 1862, in Hood's memorable charge against McClellan, and sacrificed his young and noble life upon the altar of his country; as a tribute to his gallant and chivalrous conduct on the field of battle; therefore be it

Resolved, that his friends be permitted to inter his remains in the State Cemetery.

Approved March 21, 1895.

CONCURRENT RESOLUTION.

[S. C. R. No. 21.] Authorizing and directing the Secretary of State to correct a mistake in enrollment of Substitute House Bill No. 120, passed at a former day of the present session of the Legislature, so as to show the action of the Senate thereon.

Section 1. Be it resolved by the Senate, the House concurring: That the Secretary of State be and he is hereby authorized and directed to correct an error on the enrolled bill now on file in his office, passed at the present session of the Legislature, the error to be corrected being the following: "Substitute House bill No. 120 being under consideration in the Senate on March 6th, 1895, was on that day read the third time and duly passed by the following vote: twenty (20) yeas, and one (1) nay." Such action of the Senate was thereupon correctly endorsed on the engrossed bill, and the same was on the 7th day of March reported to the House of Representatives; the bill was then enrolled by the enrolling clerk of the House of Representatives, but in enrolling the same the said clerk inadvertently and by mistake failed to copy the action of the Senate thereon as aforesaid. The bill as enrolled appearing by such act of said clerk to have passed the Senate by the following vote: "twenty (20) ayes, and no (0) nays;" and the Secretary of State is hereby directed to correct said mistake on the said act in his hands, and to file this resolution in his office along with said act, and in publishing the act he shall cause its publication as if said mistake had not occurred, and in accordance with the action of the Senate thereon.

Sec. 2. That the fact of such mistake having occurred creates an emergency and an imperative public necessity requiring the suspension of the constitutional rule that bills be read on three several days be suspended, and that this resolution take effect and be in force from and after its passage, and it is so enacted.

Approved March 30, 1895.

CONCURRENT RESOLUTION.

[S. C. R. No. 26.] Asking the Secretary of State to return to the Senate S. B. 170, entitled "An act to amend an act entitled an act to amend article 1054, chapter 2, title 15, of the Code of Criminal Procedure, as amended by an act of the Twenty-first Legislature, approved April 4, 1889," constituting chapter 93, general laws of the State of Texas, 1891, in order that the same may be presented to the Speaker of the House of Representatives for his signature.

Whereas, at a previous day of the present session of the Legislature, S. B. 170, being entitled "An act to amend an act entitled an act to amend article 1054, chapter 2, title 15, of the Code of Criminal Procedure, as amended by act of the Twenty-first Legislature, approved April 4, 1889, constituting chapter 93, general laws of the State of Texas, 1891," was introduced and has passed both the Senate and House of Representatives, and has received the signature of the President of the Senate and has been presented to the Governor for his signature, and

said bill has been by him approved and delivered to the Secretary of State; and,

Whereas, by mistake the same was not presented to the Speaker of the House of Representatives for his signature and was not signed by him as is required by the Constitution of Texas; therefore, be it

Resolved by the Senate, the House of Representatives concurring: That the Secretary of State be and he is hereby requested to return to the Senate the said bill, in order that it may be presented to and receive the signature of the Speaker of the House of Representatives.

Approved April 30, 1895.

JOINT RESOLUTION.

[H. J. R. No. 32.] Amending article 6, section 2, of the Constitution of the State of Texas, requiring persons of foreign birth to declare their intention to become citizens of the United States six months before any election at which such persons may offer to vote.

Section 1. Be it enacted by the Legislature of the State of Texas: That article 6, section 2, of the Constitution of the State of Texas be amended so as to hereafter read as follows:

Section 2. Every male person subject to none of the foregoing disqualifications, who shall have attained the age of twenty-one years, and who shall be a citizen of the United States, and who shall have resided in this State one year next preceding an election, and the last six months within the district or county in which he offers to vote, shall be deemed a qualified elector. And every male person of foreign birth subject to none of the foregoing disqualifications, who, not less than six months before any election at which he offers to vote, shall have declared his intention to become a citizen of the United States in accordance with the Federal naturalization laws, and shall have resided in this State one year next preceding such election, and the last six months in the county in which he offers to vote, shall also be deemed a qualified elector; and all electors shall vote in the election precinct of their residence: Provided, that electors living in any unorganized county may vote at any election precinct in the county to which such county is attached for judicial purposes.

Sec. 2. The Governor of this State is hereby directed to issue the necessary proclamation submitting this amendment to the qualified voters of Texas at the next general election.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 30th day of April, A. D. 1895, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

CONCURRENT RESOLUTION.

[C. S. H. C. R. No. 22.] **Authorizing and instructing the State Board of Public Printing to dispose of the property comprising what is known as the State printing office.**

Section 1. Be it resolved by the Legislature of the State of Texas: That the State Board of Public Printing is hereby authorized and instructed to advertise and sell all and singular the type, stands, stones, presses, boilers, engines, tools and implements, electrotyping machinery, tools, implements and material, and all other property of any character whatever and wherever found belonging to and comprising what was formerly known as the State printing office; not, however, including the outfit originally purchased for the Deaf and Dumb Institute for use in instructing the pupils in the art of printing and bookbinding in accordance with the provisions of an act of the Legislature March 13, 1875.

Sec. 2. Said Board of Public Printing shall dispose of said property as speedily as practicable, either at public or private sale, and in such manner as said board shall deem to the best interest of the State, the proceeds to be paid over to the Comptroller to the credit of the general revenue account of the State.

Sec. 3. The fact that said property is rapidly deteriorating in value and the near approach of the close of the session and crowded condition of the calendar creates an emergency and an imperative public necessity for a suspension of the constitutional rule requiring joint resolutions to be read on three several days, and that this resolution take effect and be in force from and after its passage, and it is so enacted.

Approved May 4, 1895.

JOINT RESOLUTION.

[H. J. R. No. 18.] **To amend section 4 of article 7 of the Constitution of the State of Texas.**

Section 1. Be it resolved by the Legislature of the State of Texas: That section 4 of article 7 of the Constitution of the State of Texas be so amended as to read hereafter as follows:

Section 4. The lands herein set apart to the public free school fund shall be sold under such regulations, at such times and on such terms as may be prescribed by law; and the Legislature shall not have power to grant any relief to purchasers thereof. The Comptroller shall invest the proceeds of such sales, and of those heretofore made, as may be directed by the board of education herein provided for in the bonds of the United States, the State of Texas, or counties in said State, or in such other securities as may be prescribed by law, or in agricultural lands, for the benefit of the penitentiary system of the State, under such restrictions as may be prescribed by law, and the State shall be responsible for all such investments.

Sec. 2. The foregoing amendment shall be submitted to the qualified

voters of the State at the next general election. Those favoring its adoption shall have written or printed on their ballots the words, "For the amendment to section 4, article 7, of the Constitution," and those opposed to its adoption shall have written or printed on their ballots the words "Against the amendment to section 4, article 7, of the Constitution;" and the Governor of the State is hereby directed to issue the necessary proclamation for said election and have the same published, as required by the Constitution and existing laws of the State.

Approved April 27, 1895.

CONCURRENT RESOLUTION.

Granting to John B. Hood Camp of Confederate Veterans the right to place in the Capitol grounds a monument to the Confederate dead.

Be it resolved by the Senate, the House of Representatives concurring: That John B. Hood Camp of Confederate Veterans be and they are hereby granted permission to erect a monument to the Confederate dead on the Capitol grounds in the city of Austin, and that the Superintendent of Public Buildings and Grounds be authorized, in conjunction with the committee appointed by said camp, to select a site for said monument.

Approved March 16, 1895.

CERTIFICATE.

THE STATE OF TEXAS,
Department of State.

I, Allison Mayfield, Secretary of State of the State of Texas, certify that the foregoing laws and resolutions, passed at the regular session of the Twenty-fourth Legislature, have been carefully examined and compared with the original enrolled bills, now on file in this department, and are true copies of said originals.

I further certify that the Twenty-fourth Legislature convened in the city of Austin January 8, A. D. 1895, and adjourned April 30, A. D. 1895.

In testimony whereof, I have subscribed my name and
[SEAL] have hereto affixed the seal of the State of Texas, in the city of Austin, this June 22, A. D. 1895.

ALLISON MAYFIELD,
Secretary of State.

List of Bills with Emergency Clause, showing when they take effect.

Ch.	Bill.	Takes effect.	Ch.	Bill.	Takes effect
1	S. B. No. 3.....	From approval.	*61	S. B. No. 142.....	Ninety days.
2	S. B. No. 4.....	Do.	*62	S. B. No. 14.....	Do.
*3	S. B. No. 26.....	Ninety days.	*63	H. B. No. 94.....	Do.
4	S. B. No. 73.....	From approval.	†64	H. B. No. 598.....	April 25, 1895.
5	S. H. B. No. 99...	Do.	65	H. B. No. 579.....	From approval.
†6	S. B. No. 34.....	Feb. 9, 1895.	*66	S. B. No. 298.....	Ninety days.
†7	S. B. No. 35.....	Do.	67	H. B. No. 696.....	From approval.
8	H. B. No. 155.....	From approval.	*69	S. B. No. 89.....	Ninety days.
9	H. B. No. 382.....	Do.	70	H. B. No. 271.....	From approval.
10	H. B. No. 251.....	Do.	*72	H. B. No. 682.....	Ninety days.
†11	S. B. No. 30.....	Ninety days.	*73	S. B. No. 15.....	Do.
†12	C. S. for H. B. No. 211.	March 1, 1895.	74	S. H. B. No. 302....	From approval.
13	H. B. No. 314.....	From approval.	*75	S. B. No. 56.....	Ninety days.
*14	S. B. No. 115.....	Ninety days.	*76	H. B. No. 677.....	Do.
†15	H. B. No. 432.....	March 9, 1895.	77	H. B. No. 600.....	From approval.
*16	S. B. No. 21.....	Ninety days.	*78	S. H. B. No. 19.....	Ninety days.
†17	H. B. No. 74.....	From approval.	79	H. B. No. 704.....	Do.
*18	S. B. No. 110.....	Ninety Days.	80	H. B. No. 457.....	From approval.
†19	H. B. No. 111.....	March 15, 1895.	*81	H. B. No. 47.....	Ninety days.
*20	S. B. No. 111.....	Ninety days.	82	H. B. No. 728.....	From approval.
*21	S. H. B. No. 120...	Do.	*83	H. B. No. 404.....	Ninety days.
22	H. B. No. 65.....	From approval.	*84	S. B. No. 51.....	Do.
*23	S. B. No. 262.....	Ninety days.	*85	H. B. No. 270.....	Do.
24	C. S. for H. Bs. Nos. 3 and 7.	From approval.	*86	S. H. Bs. Nos. 125 and 138.	From approval.
25	H. B. No. 300.....	Do.	*87	S. B. No. 238.....	Do.
26	H. B. No. 562.....	Do.	*88	S. B. No. 230.....	Ninety days.
*27	H. B. No. 165.....	Ninety days.	*89	H. B. No. 32.....	Do.
28	S. B. No. 183.....	From approval.	*90	S. B. No. 257.....	Do.
29	H. B. No. 668.....	Do.	*92	S. B. No. 123.....	Do.
*31	S. B. No. 138.....	Ninety days.	*93	S. B. No. 170.....	Do.
*32	H. B. No. 316.....	Do.	*94	H. B. No. 471.....	Do.
*33	S. B. No. 68.....	Do.	*95	S. B. No. 195.....	Do.
*34	S. B. No. 6.....	Do.	*96	S. S. B. No. 164.....	Do.
36	H. B. No. 540.....	From approval.	†97	H. B. No. 549.....	May 3, 1895.
†37	H. B. No. 597.....	April 9, 1895.	*98	H. B. No. 294.....	Ninety days.
†38	S. B. No. 270.....	April 8, 1895.	*99	H. B. No. 56.....	Do.
†39	H. B. No. 545.....	April 9, 1895.	*100	H. B. No. 63.....	Do.
40	H. B. No. 383.....	From approval.	101	H. B. No. 173.....	Do.
*41	H. B. No. 362.....	Ninety days.	102	H. B. No. 662.....	Do.
*42	S. B. No. 149.....	Do.	104	H. B. No. 358.....	Do.
*43	S. B. No. 166.....	Do.	105	H. B. No. 225.....	Do.
*44	H. B. No. 73.....	Do.	†107	H. B. No. 661.....	April 30, 1895.
*45	H. B. No. 596.....	Do.	†109	H. B. No. 171.....	May 7, 1895.
*46	S. H. Bs. Nos. 26 and 102.	Do.	*111	S. B. No. 137.....	Ninety days.
*47	S. B. No. 95.....	Do.	*112	H. B. No. 55.....	Do.
*48	S. B. No. 299.....	Do.	*113	S. B. No. 269.....	Do.
49	S. B. No. 266.....	From approval.	*114	H. B. No. 635.....	Do.
*50	S. H. B. No. 556.	Ninety days.	*115	H. B. No. 593.....	Do.
*51	S. B. No. 210.....	Do.	*116	S. B. No. 209.....	Do.
*53	S. B. No. 49.....	Do.	*117	H. B. No. 699.....	Do.
*55	H. B. No. 412.....	Do.	*118	H. B. No. 14.....	Do.
56	H. B. No. 93.....	From approval.	†119	H. B. No. 166.....	May 9, 1895.
*57	H. B. No. 708.....	Ninety days.	*120	S. B. No. 220.....	Ninety days.
59	H. B. No. 725.....	From approval.	*121	S. B. No. 101.....	Do.
			†122	S. S. B. No. 106.....	May 10, 1895.
			*124	S. B. No. 312.....	Ninety days.

List of Bills with Emergency Clause, showing when they take effect.

(CONTINUED.)

Ch.	Bill.	Takes effect.	Ch.	Bill.	Takes effect.
*125	S. B. No. 66.....	Ninety days.	†131	H. B. No. 413.....	May 9, 1895.
*126	S. B. No. 284.....	Do.	†132	H. B. No. 283.....	April 22, 1895.
*127	S. B. No. 175.....	Do.	*133	S. B. No. 207....	Ninety days.
†128	H. B. No. 20.....	Feb. 14, 1895.	134	H. B. No. 538.....	March 19, 1895.
129	H. B. No. 147... ..	From approval.	135	H. B. No. 311....	From approval.
†130	H. B. No. 487.....	March 17, 1895.			

*Passed, but failing to get two-thirds vote in Senate and House, does not go into effect until ninety days after adjournment of Legislature.

†Passed by two-thirds vote in Senate and House, and became a law without the Governor's signature.

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OF
THE STATE OF TEXAS

PASSED AT THE
REGULAR SESSION OF THE TWENTY-FOURTH LEGISLATURE

CONVENED
AT THE CITY OF AUSTIN

JANUARY 8, 1895, AND ADJOURNED APRIL 30, 1895.



AUSTIN
1895

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SPECIAL LAWS OF TEXAS.

TWENTY-FOURTH LEGISLATURE, 1895.

HOUSTON—AMENDMENT TO CITY CHARTER.

CHAP. 1.—[H. B. No. 608.] An act to amend sections 4, 8, 10, 11, 24, 25, 28, 30, 36, 48, 49, 50, 58 and 59 of an act entitled "An act to incorporate the city of Houston, and grant a new charter to said city of Houston," passed March —, 1893.

Section 1. Be it enacted by the Legislature of the State of Texas: That sections 4, 8, 10, 11, 24, 25, 28, 30, 36, 48, 49, 50, 58 and 59 of an act entitled "An act to incorporate the city of Houston and grant a new charter to said city of Houston," passed March —, 1893, be and the same is hereby amended as follows, to-wit:

That section 4 of said charter be amended so as to hereafter read as follows:

Sec. 4. That each ward in the city may be divided into as many sections, and as many polling places as may be prescribed in said sections as the city may see fit and proper, and each ward in the city shall be represented in the city council by two aldermen, who shall hold office for two years and until their successors are elected and qualified. Said aldermen shall be elected by the qualified voters of the city, and no person shall be competent to fill the office of alderman unless at the date of his election and for sixty days next preceding he be a qualified voter of the city, and for two years an actual and bona fide resident of said ward, and a freeholder owning real property in said city and ward. Should any alderman remove from his ward during the term for which he was elected his office shall thereupon become vacant and the mayor shall order an election to fill such vacancy.

That section 8 of said charter shall be amended in the first paragraph of said section so as to hereafter read as follows:

Section 8. Meetings of the Council.—That regular meetings of the city council shall be held in the council chamber weekly at such times as may be fixed by resolution of the board, and the mayor of his own motion may call special meetings for the transaction of special business by written notices served personally upon each member of the board, or left at his usual place of abode. Any three members of the board may in like manner call special meetings of the council; but no special meetings shall be called except in cases of urgent necessity, and the written notices served upon the members of the board shall state the object and purpose for which the meeting is called. General business shall only be transacted at the regular meetings. The city council may adjourn from day to day until the business properly coming before it is disposed of.

That section 10 of said charter shall be amended so as hereafter to read as follows:

Section 10. That there shall be elected by the qualified voters of said city of Houston a mayor, city treasurer, assessor and collector of taxes, city engineer, health officer, city marshal, street commissioner, city recorder and a city attorney, who shall hold their respective offices for two years, and until their successors are qualified, unless sooner removed by the city council: Provided, that the present officers of said city shall hold their offices until the next election of city officers, as prescribed by the ordinances now in force. The assessor and collector may appoint one or more deputies, for whose conduct he shall be responsible, and deputy or deputies shall have power to perform any act which may be performed by the assessor and collector in person.

That section 11 of said charter shall be amended so as hereafter to read as follows:

Section 11. The mayor shall appoint a superintendent of schools, a city secretary, a city scavenger, and a market master, whose appointment shall be confirmed by the city council, who shall hold their respective offices for two years, and until their successors are qualified, and shall perform such other duties as may be prescribed by the city council; and all elective and appointive officers, together with members of the police force, shall be constitutional citizens and tax-payers of the city.

That section 24 of said charter shall be amended so as hereafter to read as follows in the first paragraph:

Section 24. Cost of Street Improvements.—The city council shall fix and determine the nature and extent of all sidewalks, curbings, street, drainage and sewerage improvements, and decide as to the kind of material to be used, except as limited or qualified by section 25 of this act. The cost of constructing or repairing (as the case may be) of all sidewalks, foot ways and curbings, and cost of grading, shelling, paving, repairing, repaving or otherwise improving any avenue, street, alley or other highway, or any portion thereof, within the limits of the city, and the cost of all drains or sewers laid and constructed within the city, together with the cost of collecting thereof, shall, whenever, by a vote of two-thirds of the aldermen elected, such improvements shall be declared necessary for the public interests, be defrayed in case of curbing, sidewalks and street improvements by the owner or owners of the lot or lots, block or blocks, tracts of land when not laid out into lots and blocks, abutting on such street or portion of street improved, according to the cost of work in front of the particular lot or block or tracts of land; and in case of sewerage or drainage improvements shall be defrayed by the owner or owners of such lot or lots, block or blocks, or tracts of land when not laid out into lots or blocks, according to the proportionate benefits of the lots, blocks or tracts of land within the sewerage or drainage districts hereinafter provided for, taking into consideration the area and locality of the property affected; and the cost of all such improvements shall be a tax and charge against the person or persons owning such lots, blocks or tracts of land at the time such tax, or any portion thereof, shall become due as to such lots, blocks and tracts of land, and a lien and encumbrance upon the land itself; and said tax against the property owner may be collected and a lien upon the property foreclosed in any court having jurisdiction.

In the third paragraph of section 24:

The city council shall, by resolution duly passed, designate the streets or portions of streets on which curbing, sidewalks or street improvements shall be made or constructed, and the district within which the sewerage or drainage improvements shall be constructed, and the general nature of the improvements to be made, and the principal ingredients of the materials to be used, except as limited or qualified by section 25 of this act: Provided, however, that provisions may be made in such resolution for receiving bids on more than one kind of material, or of different modes of construction. Said resolution may be amended or changed by a two-thirds vote of the city council at any time previous to the publication of the advertisement for bids, and it shall be proper to embody in the same language to the effect that the improvements contemplated will be made only on those portions of the street or streets referred to where good and sufficient improvements of like character do not exist; and in such event the mayor, as the work progresses, shall determine where such existing improvements, if any, are in fact good and sufficient within the meaning and intent of the resolution, and he shall direct the contractor accordingly; and any property owner shall have the privilege of putting down his own sidewalks and curbing in front of any lot owned by him: Provided, the same are completed or in course of construction prior to the leaving of material near the same for that purpose by the contractor employed by the city; and if in course of construction, are completed in a manner satisfactory to the mayor, at such time, to be determined by the mayor, as will not interfere with the work being otherwise done by the contractor. When sewerage or drainage improvements are contemplated said resolution shall refer to the district within which property will be assessed for the payment of the same.

In paragraphs 5 and 6 of section 24:

Liability of Railroads.—Any railroad or street railway company shall be liable for the cost of grading, paving, repairing or repaving or otherwise improving the portion of the street or intersections used or occupied by such railway company, and such cost shall be a lien upon the property and franchises of the company. The portion of a street occupied by any railroad or any street railway company shall be deemed to mean all that portion of the same between the rails of all tracks laid, and extending twelve inches beyond the outer edge of the rails of such road, and including the space between double tracks and between the main track, side tracks or turnouts.

Liability where there are Two Railroads.—Any railroad or street railway company proposing to occupy any street already occupied by any such company shall, besides paying for paving along their tracks as above provided, be required to also pay for paving between the tracks of said two roads to within twelve inches of the track of such other road, and such cost shall be a lien upon the property and franchises of the company. And any person or corporation having an easement in any land not in but abutting on the street, shall be liable for street curbing, sidewalks, drainage or sewerage improvements in same manner as though it or he were the owner of such land, and a lien shall exist on such land, inclusive of such easement right, to secure the cost of such improvement.

That section 25 be amended by substituting the following for the second and third paragraphs of said section:

After the passage of such resolution for the paving, repairing, repaving or otherwise improving any street or streets or parts of streets, it shall then be the duty of the city engineer to make an estimate of the quantities of the various items of work to be done under said resolution, said estimate of quantities to be made by the street or parts of streets, and on which estimate of quantities all bids may be canvassed to determine the gross bid of various bidders on each streets. After said estimate is completed, it shall be the duty of the city engineer to report therewith to the city council detailed plans and specifications for the work embraced in said resolution: Provided, however, that it shall be the duty of said board of public works to examine said specifications and a majority of the members thereof shall endorse their report in reference to the same thereon or affix it thereto before the same are approved by the city council: Provided, further, however, that said city council shall, nevertheless, have the right, after such report shall have been made by the board of public works, to amend or change said specifications without further reference to said board. Specifications for paving shall embrace not less than three standard materials, i. e., stone, brick and asphaltum. The city council may amend or change said specifications before adopting the same, which specifications, when adopted by the city council, shall be opened for public inspection in the office of the city secretary or that of the city engineer; and it shall be proper to provide in the said specifications for such reasonable alterations in the grade, plan, form or dimensions of the work, or additions to the same, as may become apparent or found to be necessary or expedient by the city engineer or board of public works, as the work referred to in the same progresses.

When said specifications have been duly adopted by the city council it shall be the duty of the mayor to advertise for bids by at least four days advertisement in one or more daily newspapers of general circulation published in the city of Houston; and said advertisement shall state the approximate quantities of work to be done, as shown by the city engineer's estimate, the time when such proposals will be opened, and shall show the manner in which the work is to be paid for. All proposals shall be addressed to the city secretary and opened in the presence of the city council at a regular meeting. Bond, to be fixed in amount by the city council and approved by the mayor, shall be required of all contractors. After bids are received by the city council the city engineer and the city secretary shall make a statement in writing to the city council fixing the approximate cost of doing the work with the several materials and under the different bids. It shall then be the duty of the city council to allow property owners liable to be assessed for said improvements fifteen days time to designate by petition to the city council the material to be used, and if the owners of the majority of all the front feet of property liable to be assessed for said improvement shall petition for any particular materials named in resolution, then the materials so designated shall be used and said preference of said majority shall control in the letting of the contract or contracts, and the council shall award the contract for the particular material designated by choice of the majority in front feet of the property owners to the lowest and best bidders, in the discretion of said council. The finding by the city council by resolution that a majority petition was or was not filed within the time specified

shall be final and conclusive in any court or other tribunal that said petition was or was not filed: Provided, however, if there is no preference by the owners of the majority of all abutting property within the time specified, then said council may proceed to award the contract or contracts to the lowest and best bidders, in their discretion: Provided, however, it shall be the duty of the board of public works to report their recommendation on all bids as provided by section 31 of this act.

That section 28 shall be amended so as to read as follows:

Section 28. Division and Rate of Interest of Assessments.—The sum assessed against each separate lot or tract of land, when not divided into lots, described in the roll of ownership shall bear interest at the rate of six per cent per annum from the first day of the month next after the acceptance by the city council of the work embraced in said roll, and shall be divided by the city secretary into annual installments not less than three nor more than ten, as may be provided by the resolution authorizing said assessments, and of as nearly equal amounts, not less than ten dollars each, as he may deem most convenient, and he shall add to each installment the amount of interest to become due on the entire amount of principal unpaid at the maturity of said installment, and the sum so computed shall constitute the total amount due each year respectively on said tract of land: Provided, that when the amount assessed against any particular piece of property is less than thirty dollars and more than twenty dollars, the same may be divided into two installments, and when less than twenty dollars a single certificate may be issued therefor.

Amend section 30 by erasing the entire section and substitute the following as section 30:

Section 30. When the resolution passed as authorized by section 24 of this act shall provide that the proportion of the cost of the improvements to be borne by the property owners and by the city street railway company to be done thereunder shall be paid for in district improvement bonds, or warrants of the city of Houston, of such date and of such form as may be prescribed by the city council, then such bonds or warrants shall bear the name of the street, alley or district improved, and payable to the bearer in a sufficient number of years after date to cover the period of payment as provided in section 28 of this act, but subject to call as hereinafter provided, in convenient denominations of not more than one thousand dollars each. All such bonds and warrants shall be issued to the contractor to cover the proportion of the cost of improvements to be borne by the property owners and the street railway company by the city treasurer, upon estimates and order of the city council, approved by the mayor; and the city treasurer shall preserve a record of the same in a suitable book kept for that purpose. Said bonds and warrants shall be subscribed by the mayor and attested by the city secretary and the seal of the city, and registered by the city treasurer; the same to be payable only out of the moneys collected on account of the assessments made for said improvements respectively; and said bonds shall not be an obligation of said city except out of said fund. And all moneys collected from the assessment roll on the account of the assessments for any improvements shall be applied to the payment of the bonds or warrants, which shall bear interest at the rate of six per cent per annum, payable annu-

ally, the interest to be evidenced by coupons to be attested by a fac simile of the signature of the city treasurer.

Whenever considered prudent by the city treasurer he may, and whenever funds be in his hands to the credit of any improvements exceeding six months interest on unpaid principal he shall, by advertisement for five days in some daily newspaper of general circulation published in the city of Houston, call in a suitable number of the bonds or warrants of the same district for payment, and at the expiration of thirty days from the first publication of said notice, interest on the bonds or warrants so called shall cease; and the notice shall specify the bonds or warrants so called by number, and all bonds or warrants shall be called and paid in their numerical order. The holder of any bond or warrant may at any time furnish his postoffice address to the city treasurer, and in such a case a copy of said advertisement shall be mailed by the city treasurer to the holder of the bonds or warrants called at said address, on the first day of said publication.

All special assessments for such improvements shall be collected by the city treasurer, by suit if necessary, directly from the assessment rolls, and shall be noted thereon and receipted for by him as city treasurer; and under no circumstances shall any abatement of principal or interest be made in favor of any person or property liable therefor on said rolls.

Said city council may in its discretion provide by ordinance for the collection of said special assessment by the city treasurer by advertisement and sale in the same manner so far as practicable as in the case of general taxes levied by said city, and in such event all the provisions of said charter relative to the collection of taxes and said proceedings had in reference to tax sales under the same shall be applicable.

That section 36, paragraph 10, shall be amended by adding the following paragraphs to be respectively paragraphs 11, 15, 23 and 25 of said section, defining the general powers of the city council:

To provide for the construction, regulation and inspection of buildings in the limit of the city of Houston for the more effectual prevention of fire, and the better protection of life and property therein, and to prescribe that plans for building be submitted to the superintendent of buildings or other officer designated by the council of the city of Houston, who shall inspect the same, and if not in conformity with the regulations of the city of Houston in regard to the proper construction of buildings so as to prevent and control fires and better protect the life and property of the inhabitants of the city of Houston, to prohibit the construction of said building, and to tear down said building if built without first obtaining permission after first submitting plans; and said superintendent of buildings or other officer designated by the city council shall have the right to inspect buildings to see if they are in conformity with the ordinance of the city of Houston regulating the same; and the city of Houston shall have the right to fine parties, upon conviction before the recorder, who shall refuse or fail to comply with the building ordinances of the city of Houston; and the said city of Houston shall have the right to require parties who own or are having buildings constructed to pay the superintendent of buildings or other officer designated by the city council of the city of Houston a reasonable fee for inspecting the plans and buildings.

To regulate burial grounds and cemeteries, and to prohibit burial

within the city limits if deemed advisable, and to condemn and close cemeteries and burial grounds in the thickly settled portions of the city when demanded by the public interest; to remove or cause to be removed all bodies interred in such condemned and closed cemeteries and burial grounds and cause them to be reinterred in a suitable place, and to use such condemned ground for such purposes as may best subserve the interests of the city.

To direct and control the laying and construction of railroad tracks, turnouts and switches, and to regulate the grades of the same where they are below or above the city's grade, and that they be required to be constructed and laid out so as to interfere as little as possible with the ordinary travel and use of the streets.

That sections 48 and 49 shall be amended so as to read as follows:

Section 48. The city council may continue annually to assess, levy and collect the special tax provided by ordinances passed by the city council of said city on the second day of June, A. D. 1888, for the purpose of paying the interest and principal of the various outstanding bonds issued by the city of Houston, and may by ordinance assess, levy and collect annually upon all property, real and personal, in the city of Houston, not exempt from taxation, such additional tax, not exceeding one and one-half per cent ad valorem, as the interest of the city may require for other purposes: Provided, that if the council should fail or neglect to pass a tax ordinance for any one year levying the taxes for that year, that the tax ordinance last passed will be considered in force, and the failure to pass such ordinance shall in nowise invalidate the collection of the tax. It may also determine when taxes shall be paid by corporations or by individual corporators, and levy, assess and collect upon each male citizen of the city over the age of twenty-one years an annual poll tax of one dollar. All taxes upon real estate shall be a lien and charge upon the property, which lien may be foreclosed and the tax collected by suit in any court having jurisdiction. All taxes not paid within the time prescribed by the ordinances shall bear interest at the rate of six per cent per annum.

All real and personal property held, owned or situated in the city of Houston shall be liable for all taxes due by the owners thereof, including taxes on real estate, personal property and poll tax. All personal property may be levied upon, seized and sold by the assessor and collector for any taxes that may be due, without further warrant of authority than the production of his tax roll, which sale when made shall convey a perfect title to the purchaser thereof; or the amount of the tax may be sued for in any court having jurisdiction, and a personal judgment be recovered against the delinquent tax payer, or against any person to whom the personal property on which the city tax is due has been sold, or who owns, holds and claims possession of said personal property.

It shall be the duty of every person owning or holding property in the city of Houston to render to the assessor and collector of taxes at his office in said city annually, within the time prescribed by the ordinances of said city, a full and complete inventory of all property so owned or held by him, whether real or personal, and to take and subscribe an oath as to the correctness of such inventory; which oath may be administered by the assessor and collector in person or by deputy.

All taxes shall be payable at the office of the assessor and collector;

and no demand by him be requisite or necessary to enforce the collection thereof by any proceedings herein prescribed, nor for any taxes due before the passage of this act. The assessor and collector shall inventory and assess all property which the owners thereof may fail or refuse, or may have failed or refused, to inventory and assess for previous year, which inventory and assessment when so made by him shall be as valid and effective as if made by the owner thereof.

Section 49. That the license tax shall be collected by the assessor and collector of taxes and shall be paid to that officer in current funds of the United States by each and every person or firm owning [owning] such license, and before engaging in any trade, profession, business, calling, avocation, or occupation subject to such tax, taking his receipt therefor, which receipt shall entitle him, her or them to a corresponding license to be issued by the mayor.

And if any person shall engage in any business, calling, avocation or occupation which by an ordinance of said city is subject to a license tax without first having obtained such license, he, she or they shall be liable to arrest and imprisonment and a fine of ten (\$10) for each and every day such violation of said ordinance may continue; and this section shall apply to all persons owing license and failing to pay the same; and the city council may make such further regulations as it deems necessary to enforce the provisions of this section, and punish the violation thereof.

That paragraphs 1, 2 and 3 of section 50 shall be amended so as to read as follows:

Section 50. That the city council may and shall have full power to provide by ordinance for the prompt collection of all taxes levied, assessed and due or becoming due to said city, and to that end may and shall deem necessary to the levying, laying, imposing, assessing and collecting of any of said taxes, and to regulate the mode and manner of making out tax lists and inventories, and the appraisement of property thereon, and to prescribe the oath that shall be administered to each person on such rendition of property, and to prescribe how and when property shall thus be rendered, and to fix the duties and define the powers of the assessor and collector of taxes.

All taxes due by property owners, as appears upon the tax rolls of said city, may be collected by suit from delinquents, and foreclosure of the lien thereon in any court having jurisdiction of the same; and any person who shall purchase property encumbered with a lien for taxes shall be deemed as to such taxes a delinquent tax payer, and such purchaser takes the property charged with a lien, and he can not interpose any defense which his vendor might not, had he continued to be the owner.

The city of Houston has the right to maintain a suit to recover a personal judgment for the amount of the tax due it, and the tax may be collected by sale of the particular property on which it is assessed, by enforcing the lien or by the sale of that or other property under a judgment of the court, or by seizure and sale of personal property. The assessment rolls shall be taken as prima facie evidence of the statements made therein and that all the prerequisites required by law pertaining to the levying and assessing of taxes have been complied with, and all questions as to misnomer, proper parties to the suit for taxes, misdescription, and to suits against unknown owners, shall apply in favor of the

city of Houston, and no person shall be permitted to question the same until all taxes due upon the property have been paid. No delinquent tax payer shall have the right to plead in any court or in any manner rely upon any statute of limitation by way of defense against the payment of any taxes due from him or her to the city of Houston.

In no case shall the city council, or any member of the city council, or officer of the city, remit, discount or compromise any tax legally due the city. The city shall have equal right to become the purchaser at all sales of property under judgment or otherwise for taxes due it. All taxes shall be due and payable on the first day of July of each and every year, and if not paid by the first day of January thereafter, the same shall bear interest from the said first day of January until paid, at the rate of six per cent per annum. It shall be the duty of all persons from whom such taxes are due to call and pay the same to the city assessor and collector of taxes at his office in the city of Houston, between the said first day of July and the first day of January next thereafter. Immediately after the first day of January in every year it shall be the duty of the assessor and collector of taxes to prepare a roll containing a description of all the property described in the assessment rolls of the next preceding year, that is to say, of the year ending on the next preceding thirty-first day of December, on which the taxes have not been paid. Said roll shall be called the "delinquent roll," and shall consist of a copy from the assessment rolls of so much of the lien on which the tract of land or property on which the tax remain unpaid as will identify the property and show the amount of taxes due on the same.

During the same time that the city assessor and collector shall prepare the "delinquent roll" above described, he shall prepare separate statements of tax accounts due the city, to be furnished the city attorney on which to bring suits, which statement shall contain the description of the property, the year for which the tax is due, the amount of tax due, the rate of taxation, and the person or persons, estate, firm or corporation who assesses the same, or whether the property is rendered, unrendered, or owner is unknown, as appears from the tax rolls: Providing, that where several tracts of land and different kinds of property are assessed by the same person, firm, estate or corporation, that they may be contained in the same statement; which said delinquent roll shall be finished and said statements furnished not later than the thirty-first day of March of each year; said delinquent roll shall be published during the month of April following, once a week for four weeks, in some daily paper published in the city of Houston, and a failure to comply with these provisions by the city assessor and collector of taxes shall be deemed a malfeasance, and be cause for impeachment. Upon receipt of the above tax statements by the city attorney, he shall as soon as possible institute suit in the proper court to enforce the collection of taxes due the city, and shall file suit on all of said statements furnished him by the city assessor and collector of taxes by the next first of October after he has received them, and the failure on the part of the city attorney to file suits on said statements by the first of October shall be deemed a malfeasance and be a cause for impeachment; but a failure on the part of the city assessor and collector of taxes to prepare the "delinquent roll" or furnish tax statements to city attorney, or a failure on the part of the city to file suits within the proper time, shall in nowise affect the liability of the delinquent tax

payer, or shall such failure in any manner be relied on by way of defense against the payment of taxes due the city. A board of appraisement shall be appointed by the mayor and confirmed by the council and shall continue to act as such board until their term of office as aldermen has expired; and all matters pertaining to taxation shall be referred to the said board, from whose final decision there shall be no appeal. The board appointed by the present administration at its commencement in 1894 is hereby constituted the board of appraisement and shall continue to serve as such until their present term as aldermen shall expire.

That section 58 shall be so amended as to read as follows:

Section 58. Public Work to be Done by Contract—Exception.—That all works of improvements and public works for said city, the cost of which will exceed the sum of one thousand dollars, shall be let out to the lowest and best bidder, in the discretion of the council, by sealed proposals; and no contract shall be made or entered into until the plans and specifications for such work or improvements shall have been prepared and submitted to the council and adopted by it, and an advertisement published in at least four issues of some daily paper published in the city inviting bids therefor, providing that owners of abutting property shall have the right to pay cash for all improvements, and providing that bids shall state the price at which the work will be done if paid for in cash, and also the price if district improvement bonds or warrants be issued therefor, and stating the time when such sealed proposals will be opened: Provided, that if no bids be received, or those received be rejected by the city council, the city may, in its discretion, proceed to have such work or improvement done under the direction of a committee from the membership. City printing and all repairing of bridges or other similar work, of which it is manifestly impossible to make specifications, are not embraced in this requirement. No bids shall be considered unless made in accordance with the plans and specifications, and no allowance for extra work shall ever be made or paid for. The sealed proposals shall be addressed to the city secretary, and shall be opened only in the presence of the city council at a regular meeting. Bond and security, to be fixed and approved by the city council, shall be required of all contractors.

That section 59 be amended in the fourth paragraph of said section so that it shall read as follows:

Interest and Sinking Fund to be provided for.—The ordinance authorizing any bonds to be issued shall also provide a fund to pay the interest and create a sinking fund sufficient to pay the bonds at maturity, and said sinking funds shall be invested in bonds of the city or in United States bonds, and neither said interest nor sinking fund shall be diverted to any other purpose whatever.

Sec. 2. That this act shall be deemed a public act, and judicial notice shall be taken thereof in all courts. No general law hereafter passed by the Legislature of the State shall be held to repeal any power herein granted or which is now vested in the corporation of Houston, unless the act conferring such power be specially referred to in such repealing act.

Sec. 3. Whereas, there are no adequate laws in force providing for the paving, improving and repairing of the streets and sidewalks of the city of Houston, there exists an imperative public necessity for suspending the constitutional rule requiring bills to be read on three sever-

days, and an emergency exists which requires this act to take effect from and after its passage, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 3rd day of April, A. D. 1895, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Tom C. Thornton, Acting Secretary of State.]

AUSTIN—AMENDMENT TO CITY CHARTER.

CHAP. 2.—[H. B. No. 675.] An act to amend section 57 of an act entitled "An act to incorporate the city of Austin, to grant it a new charter, and to extend its boundaries," passed by the Twenty-second Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas: That section 57 of an act entitled "An act to incorporate the city of Austin, to grant a new charter, and to extend its boundaries," passed by the Twenty-second Legislature of the State of Texas, be so amended as hereafter to read as follows:

Section 57. That the city council shall have power by ordinance,

1. To make regulations to prevent the introduction or spreading of any contagious disease within the city; to make quarantine ordinances for that purpose, and to enforce them within the city and within ten miles thereof, and to enforce vaccination, and to establish hospitals and make regulations for the government thereof within and without the city limits, and to make and enforce all other necessary regulations to secure the general health of its inhabitants.

2. To establish or erect, or cause to be established or erected, markets and market houses; to designate, regulate and control market places and privileges; and to inspect within or beyond the city limits, and to determine the mode of inspecting cattle, meats, birds, fowls, fish, vegetables, fruit, milk, and to seize and destroy any decayed or unwholesome fruit or vegetables and impure or unhealthy or unwholesome meats, birds, fowls or fish; and to regulate, license, control or prevent the sale or keeping for sale on public streets, squares and alleys of any article of food or drink, or any goods, wares or merchandise of any kind whatever.

3. To define what shall be a nuisance in the city, and to punish the authors thereof by penalties, fines and imprisonment.

4. To do all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of disease.

5. To co-operate with the commissioners court of Travis county in making such improvements connected with the city and county as may be deemed by the city council and commissioners court necessary to improve the public health and to promote efficient sanitary regulations; and by mutual agreement they may provide for the construction of such improvements and the payment therefor.

6. To regulate the burial of the dead, and to prohibit public funerals in case of death from any contagious or infectious disease; to purchase, establish and regulate one or more cemeteries within or without the city

limits; to regulate the registration of marriages, births and deaths; to direct the returning and keeping of bills of mortality, and to impose penalties on physicians, ministers, sextons and others for any default in the premises.

7. To provide for the erection of all needful buildings for the use of the city within its limits, and to determine when it is necessary to acquire property or the use thereof by the power of eminent domain, for all purposes for which the city may lawfully exercise such power.

8. To license and regulate auctioneers, grocers, merchants, retailers, hotels and boarding houses, and bakeries; and to license and regulate or suppress ordinaries, hawkers, peddlers, brokers, pawnbrokers and money changers.

9. To license and regulate hacks, carriages, omnibuses, wagons, carts and drays, and fix the rate to be charged for carriage of persons and for wagonage, cartage and drayage of property.

10. To license and regulate theatrical and other exhibitions, shows and amusements.

11. To license and regulate billiard tables, restaurants, drinking houses or saloons, and all places or establishments where intoxicating or fermented liquors are sold, and to regulate their location; and to restrain and suppress street beggars, disorderly houses, lotteries and all fraudulent devices and practices.

12. To suppress gaming and gambling of all kinds and descriptions, and to prevent the same.

13. To prohibit bawdy houses, houses of prostitution and assignation houses, and to punish prostitutes and keepers of houses of prostitution within the city.

14. To provide for the prevention and extinguishment of fires, and to organize and establish fire companies; also to regulate, restrain and prohibit the erection and repair and maintenance of wooden buildings in any part of the city, and to declare all wooden buildings which they may deem dangerous on account of fire nuisances, and to require the same to be removed in such manner as the council may direct.

15. To regulate and prevent the carrying on of manufactories dangerous in causing or producing fires; to appoint fire wardens and property guards, with power to remove and keep away from the vicinity of any fire any suspicious persons lurking near the same, and to compel any person or persons present to aid in extinguishing the fire, or in the preservation of property exposed to the same, and to prevent goods from being purloined thereat; and with such other powers and duties as may be prescribed by ordinance.

16. To compel the owners of houses and other buildings to have scuttles upon the roofs of any such buildings or houses, and stairs and ladders leading to the same.

17. To create a board of fire commissioners.

18. To regulate and describe the manner of building partition and parapet walls, and of partition fences.

19. To establish standard weights and measures, and to regulate the weights and measures to be used in the city in all cases not otherwise provided for by law.

20. To provide for the inspection of lumber, the measurement thereof, and other building material.

21. To provide for the inspection and weight of hay, the measure of charcoal and other fuel to be used in the city.

22. To regulate and prescribe the duties and powers and compensation of all officers and employes of the city in accordance with the limitations of this charter, and to require bonds from them.

23. To create such offices and employ such agents as they may deem necessary for the good government and interest of the city, and to change or prescribe additional duties of all such officers and agents: Provided: that the compensation of officers and employes shall not be increased nor diminished during their term of office.

24. To provide for the taking of an enumeration of the inhabitants of the city.

25. To provide for the removal from office of any person holding an office created by this act or by ordinance not otherwise provided for.

26. To fix compensation and regulate the fees of all jurors and witnesses; to impose fines, forfeitures and penalties for the breach of any ordinance, and to provide for the recovery and appropriating of such fines and forfeitures and the enforcement of such penalties: Provided, that no penalty shall exceed a fine of two hundred dollars and imprisonment not exceeding fifteen days for any one offense.

27. To erect a work house and prisons and a house of correction, and to provide for the regulation and government thereof.

28. To regulate and license all ferries and toll bridges within the limits of the city, except that portion of the Colorado river above the point where the northern boundary corporate line of the city calling to run westwardly would intersect the Colorado river if prolonged westwardly, nor shall any ordinance be enforced prohibiting hunting or fishing on said portion of the river.

29. To prevent and restrain any riot, disturbance or disorderly assembly in any street, house or place in the city.

30. To use, regulate, improve, grade and control all grounds owned by the city within its limits.

31. To regulate the size, number and manner of construction of doors and stairways of theatres, tenement houses, audience rooms, public halls, and all buildings used for gathering of large numbers of people, whether now built or hereafter to be built, so that they may be convenient, safe and speedy exits in case of fire.

32. To require the construction of suitable fire escapes on or in hotels, lodging houses, factories and other buildings, whether now or hereafter to be built.

33. To authorize one or more officers, agents or employes of the city to enter into and upon all buildings and premises for the purpose of examining and discovering whether or not the same are dangerous on account of fire, or in an unclean state, and cause the defect to be remedied, and filth and trash to be removed; and generally the council shall have the power to establish such regulations for the prevention and extinguishment of fires as it may deem expedient.

34. To prevent, prohibit and suppress horse racing, immoderate riding or driving in the streets; to prohibit and punish abuse of and cruelty to animals of every kind; to compel persons to fasten their horses or animals attached to vehicles or otherwise while standing or remaining in the streets or other public places.

35. To prohibit the rolling of hoops, flying of kites, firing of fire crackers or fireworks of any kind, or any other amusement having a tendency to annoy persons passing in the streets or on the sidewalks; to restrain and prohibit the ringing of bells, the blowing of horns, whistles or bugles, the crying of goods, and all other noises, practices and performances tending to collect persons on the streets or sidewalks, by auctioneers and others, for the purpose of business or otherwise.

36. To prevent all boxing matches, sparring exhibitions, cock fighting and dog fighting, and punish all persons making such exhibitions.

37. To regulate and prevent drumming on the streets or sidewalks, railroad platforms or other public places.

38. To require the owners of private drains, sinks and privies to fill up, clean, drain, relay, alter, repair, fix and improve the same as they may be ordered by resolution or ordinance, so as to prevent the same being or becoming nuisances, and to impose penalties on persons not doing the same; and if there be no person in this city upon whom such order can be served, the city can have the work done, and the costs of the same shall be a lien on the property, taxed up against and collected in such manner as the city council may direct.

39. To build, own and operate street railroads within or beyond the city limits.

40. To preserve order and prevent noise and confusion in and about the several depots on the arrival and departures of trains, and to make and regulate stands for vehicles at said depots or other public places.

41. To prohibit and regulate the driving of cattle or other animals through the streets of the city.

42. To inspect the construction of all buildings in said city, and to compel the connection of all buildings with sewers when such buildings are in a sewerage district where sewers are in operation.

43. To regulate and locate the erection of all poles in the city, and cause the same to be changed, whether telegraph, telephone, electric light or otherwise.

44. To regulate the speed of locomotives, engines and other cars and vehicles in the city.

45. To direct and control the laying of railroad tracks, turnouts and switches, and to require that they be constructed and laid so as to interfere as little as possible with the ordinary travel and use of the streets, and to require that they be kept in repair.

46. To erect, construct, build and operate a water and electric system to supply the city and its inhabitants with water and electric light by constructing and maintaining a reservoir of water in and about the channel of the Colorado river, within and without the city limits, by erecting a dam across the same where such dam is now being constructed, to serve as a reservoir and to furnish power to operate an electric light system, and to build such other reservoir as may be necessary, at such an elevated point within or without the limits of the city, as may be necessary to supply the higher portions of the city with water. That for the purpose of constructing such water and light system, the city shall have power to take, hold and acquire such property within or without the limits of the city as may be necessary for the city to obtain in order to build such system or any part thereof; but no property shall be taken, overflowed with water or otherwise damaged by the city within

or without the limits, for such purpose without the consent of the owner thereof, except by due process of law, and upon making adequate compensation for property so taken, damaged or overflowed. When the owner of property which will be overflowed or damaged by the construction of such system of water and light works, or which it may be necessary for the city to acquire, can not agree with the city as to the amount to be paid for injury to property or for overflowing the same, or the price which the city should pay to acquire such property, the city may condemn such property as it may be necessary for it to acquire for such purposes, and have the damages assessed which the city should pay for injury to property to be overflowed by water or otherwise injured, in the manner that railroad corporations are now or may from time to time be authorized to condemn property, and may in like manner have the damages to be paid for property injured or overflowed assessed and established; the city occupying the place of the railroad corporation in such proceedings.

47. To regulate the use of locomotive engines, and to direct and control the location of cables and all other railroad tracks and all steam railroad tracks, and to require railroad companies of all kinds to construct at their own expense such bridges, turnouts, culverts and crossings as the city council may deem necessary.

48. To regulate the speed of all railroad trains in the city limits, and their stops at the street crossings, and require said companies to keep the streets through which they run in repair.

49. To regulate the running of horse railroad cars, or cars propelled by dummy engines or other power, and laying down tracks for the same; the transportation of passengers thereon; the form of rails to be used.

50. To establish and regulate public pounds, and to regulate and prohibit the running at large of horses, mules, sheep, swine, goats, geese, dogs and other animals, and to authorize the distraining, impounding and sale of the same for the costs of the proceedings and the penalty incurred, and to authorize their destruction when they can not be sold, and to impose penalties on the owners or harborers thereof for violation of any ordinance.

51. To provide for the holding of election by the people, and to regulate the manner of holding the same; and every male inhabitant of the city qualified to vote for State and county officers in Travis county who shall have resided six months in the limits of the city shall be qualified to vote for city officers under this act.

52. To sell and convey or lease the street railroad known as the Austin Dam Railroad, and all other street railroads now or hereafter owned by the said city, and to sell and lease for a term of years any surplus water or electric power produced by means of the dam built by said city of Austin across the Colorado river: Provided, that nothing herein contained shall be so construed as to authorize the sale or lease of the plant of the water and electric light system provided for in the 46th subdivision of this section, or any part thereof.

Sec. 2. The fact that the water and electric light system provided for in the 46th subdivision of said section 57 is now completed, and the said city of Austin without this act has not sufficient power to enable it to sell or lease the said railroad known as the Austin Dam Railroad, which is of no further use to said city in the construction of the said water and

electric light system, and has not the power to sell or lease the surplus water or electric power produced by means of the dam built by said city across the Colorado river, and without the speedy grant of such power the said city is in danger of suffering great loss from delay, creates an imperative public necessity and emergency authorizing the suspension of the constitutional rule requiring bills to be read on three several days, and such rule is therefore so suspended, and that this act take effect and be in force from and after its passage, and it is therefore so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 12th day of April, A. D. 1895, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

GALVESTON—CHARTER AMENDMENT.

CHAP. 3.—[H. B. No. 565.] An act to amend the charter of the city of Galveston by amending sections 3, 5, 18, 18a, 19, 21, 29, 78a, 113, 132c, 127, 128 and 129 thereof, and by adding thereto section 132d.

Section 1. Be it enacted by the Legislature of the State of Texas: That sections 3, 5, 18, 18a, 19, 21, 29, 78a, 113, 132c, 127, 128 and 129 of the charter of the city of Galveston be and the same are hereby amended so that they shall hereafter read as follows: And that the charter of the city of Galveston be and is hereby amended by adding thereto section 132d as follows, to-wit.

Section 3. The municipal government of said city shall consist of a city council composed of a mayor and one alderman from each ward. A majority of the aldermen elected shall constitute a quorum for the transaction of business, except at a called meeting or meetings for the levying of taxes, when three-fourths of the aldermen elected shall be required, unless herein otherwise specified. The officers of the corporation shall be a recorder, a treasurer, an assessor, a collector, a clerk, a chief of police, a chief of fire department, and engineer (who shall also be superintendent of streets), an attorney, an auditor, a health physician, a harbor master, a city sexton and such other officers and agents as the council may direct; all of whom, except the clerk, chief of police, chief of fire department and recorder shall be nominated by the mayor on the second Monday after each biennial election, or as soon thereafter as possible, and each of whom shall be confirmed by a majority of the city council. The clerk and recorder shall be appointed by the mayor on the day above mentioned without requiring the confirmation of the city council, and the chief of police and the chief of fire department shall be appointed as hereinafter provided. In the event that any nominee of the mayor is not confirmed by the city council, the mayor shall, at an adjourned meeting, nominate some other person for the office not filled at the regular day, and continue to make a nomination or renomination until some person shall be confirmed by the city council. No person shall be nomi-

inated more than three times for the same office, except by consent of the city council, and the city council can only adjourn from day to day until all the city officers shall have been nominated and confirmed. Should the mayor fail or refuse to make the nomination or nominations, or after having named four persons for any office, all of whom have been rejected by the city council, then in such event the city council shall have the right to elect by a vote of nine some person to the office yet unfilled. All said officers so nominated by the mayor and confirmed by the city council or elected by the city council, and the city clerk and recorder appointed by the mayor, shall hold their offices until the second Monday after the next biennial election and until the appointment and qualification of their successors, unless removed by the mayor or the city council under authority vested in it by this charter. The duties of the harbor master shall be such as have been or may be prescribed by the city council, and he shall receive for his services such compensation as the city council may determined, not to exceed fifteen hundred dollars per annum, and shall give bond for the faithful performance of his duties in the sum of five thousand dollars. The duties of the city sexton shall be such as the city council may prescribe. He shall receive for his services such compensation as the city council may determine, not exceeding one thousand dollars per annum, and shall give bond in the sum of two thousand dollars for the faithful performance of his duties.

Section 5. At the biennial election provided for in this charter, there shall be elected by the qualified voters of the city at large, voting by ballot, a mayor, who shall hold his office for two years from the date of said election, and until his successor shall be elected and qualified. And at the same time there shall be elected by the qualified voters of the city at large, voting by ballot, one alderman from each ward of the city, who shall hold his office for two years from the date of said election, and until his successor shall be elected and qualified: Provided, that the person so elected shall be and remain a resident of the ward which he is elected to represent as such alderman; and if he shall during the term of his office remove from such ward, his office shall be declared vacant. The person receiving the highest number of votes in the whole city for mayor shall be declared elected, and the person in any ward receiving the highest number of votes in the whole city cast for alderman of such ward shall be declared elected. In case the person elected mayor shall refuse to accept the office, the city council, mayor or acting mayor shall order another election; and in case of a vacancy in the office of mayor, by death, resignation, removal, or otherwise, it shall be filled for the remainder of the term by a new election, to be ordered by the city council or acting mayor; and in case of a vacancy of the office of alderman by refusal to accept or qualify, or by death, resignation, removal, or otherwise, the city council, mayor or acting mayor shall order a new election to fill the residue of the unexpired term; and all special elections shall be conducted in the same manner as is herein provided for the biennial election: Provided, that in special elections five days notice thereof shall be sufficient.

Section 19. It shall be the duty of the city attorney to represent the city in all cases brought for or against it in the courts of the State or United States in the county of Galveston, and in the recorder's court,

when requested by the mayor in writing, or by order of the city council. He shall give legal advice to the mayor, any officer, or the city council, when applied for in writing or referred to him by the city council. He shall prepare all ordinances and examine, supervise and prepare all contracts made by the city. He shall receive an annual salary not to exceed twenty-five hundred dollars, and such fees and commissions as may be provided by the city council: Provided, that no fees or commissions shall be allowed said city attorney for the collection of taxes, general or special, except in such cases as may be prosecuted to judgment in such suits as may be designated to be brought by the city council; and in such cases no fees or commissions shall be allowed exceeding ten per cent on the amount of taxes collected on final judgment in such suits. He shall **give bond** for the faithful performance of his duties in the sum of five thousand dollars. The powers, duties and qualifications of the city engineer, and the salary for his services, shall be prescribed by the city council, not to exceed two thousand dollars, and such fees as may be prescribed by ordinances.

As to officers' fees this section shall not be subject to the provisions of section 171 of this charter.

Section 21. The treasurer of said city shall give bond in favor of the city of Galveston in such amount and in such form as may be required by the city council, not less than fifty thousand dollars, and with sufficient sureties, conditioned for the faithful discharge of his duties. It shall be the duty of the city treasurer to receive and keep the money of the city and pay out the same on warrants drawn by the clerk and signed by the mayor and by the auditor and countersigned by the clerk under the seal of the corporation, and not otherwise. All moneys belonging to the city and received by any officer or agent or officer thereof, either from collections, fines or any other source, shall be deposited in the city treasury daily. For all moneys received he shall give duplicate receipts in all cases, one to the party paying, one for the auditor, which shall set out the amount paid and from what it proceeds, and to what account credited, and for taxes and licenses he shall give such receipts as may be provided by ordinance. All persons charged with the collection of money under the charter and ordinances of the city shall promptly pay the same over to the city treasurer under such penalty as may be prescribed by ordinance, and shall forthwith hand the treasurer's receipts to the auditor, who shall countersign the original receipt and retain the duplicate; the party paying shall then hand the original receipt and duplicate to the city auditor, who shall retain the duplicate. He shall render a full and correct statement of his receipts and payments to the city council at their first regular meeting in each month, and whensoever in other times he may be required by them to do so; he shall do and perform such other acts as the city council may require; and for his services he shall receive such salary as shall be fixed by the city council, not exceeding twelve hundred dollars per annum.

Section 29. The city council shall have power to appropriate money to provide for the payment of debts and expenses of the city. In the month of February of each year it shall make a careful estimate of the probable revenues of the city for the ensuing year, not including in such estimate more than thirty-three and one-third per cent of delinquent taxes, and allowing fifteen per cent as uncollectable of the estimated taxes for the

ensuing year, and shall provide for the disbursement and expenditures of the same, and shall at the same time fix the salaries of all officers appointed or elected under this charter, except those whose compensation is fixed therein, as follows:

1. It shall set apart and appropriate to the payment of interest upon outstanding bonds such amounts as shall have been prescribed by ordinance for that purpose, and shall also set apart and appropriate to the creation and maintenance of sinking funds for the redemption of said bonds such amounts as shall have been prescribed by ordinance for that purpose, which said sinking fund shall be invested in bonds of said city, in bonds of the State of Texas or in bonds of the United States, as said council may from time to time determine.

2. It shall reserve a fund of twenty-five thousand dollars to be used only in case of extraordinary emergencies, which could not have been foreseen before their occurrence, but in no event to be used for the ordinary expenses of the city. And whenever there shall remain unexpended any portion of such reserve fund the same shall constitute a part of such reserve fund for the next ensuing year.

3. It shall apportion the remainder of the estimated revenue to the several departments of the city government for its general expenses. Any member of the city council who shall knowingly vote for or in any manner aid or promote the passage or adoption of any ordinance, resolution or other act of the city council increasing the appropriation for the expenses of the city beyond the estimate aforesaid, unless the actual revenue shall have exceeded such estimate, and in such event beyond such actual revenue, shall thereby vacate his office, and shall be guilty of malfeasance in office, and upon conviction thereof shall be punished in the manner and to the extent provided in section 31 of this act.

Section 18. The chief of police shall either in person or by deputy attend upon the recorder's court while said court is in session, and shall promptly and faithfully execute all writs and process issued from said court. He shall be the chief police officer of the city under the mayor. He shall have like power with the sheriff of the county to execute the writ of search warrant. He shall be active in quelling riots, disorders and disturbances of the peace within the limits of the city, and shall take into custody all persons so offending against the peace of the country, and he shall have the authority to take suitable and sufficient bail for the appearance before the recorder's court of any person charged with an offense against the ordinances and laws of the city. It shall be his duty to arrest all violators of the public peace and all persons who shall obstruct or interfere with him in the execution of the duties of his office, or who shall be guilty of disorderly conduct or disturbances whatsoever. To prevent a breach of the peace, or preserve quiet and good order, he shall have authority to close any theater, bar room, ball room, drinking house or any other place or building of public resort; and in the prevention and suppression of crime and arrest of offenders he shall have, possess and execute like power, authority and jurisdiction as a sheriff of a county under the laws of the State. He shall receive a salary of not exceeding two thousand dollars per annum. The chief of police shall give such bond for the faithful performance of his duties, and perform such other duties and possess such other powers, rights and authority in addition to those herein provided as the city council may require and con-

fer upon him, not inconsistent with the Constitution and laws of this State and the provisions of this act.

Section 18a. The deputy chief of police, in the absence of the chief of police, shall conduct the duties of the office of said chief with full powers; and the deputy chief of police shall at all times be subject to the direction and orders of the chief of police, and shall perform all such other duties as may be prescribed by the city council; and he shall receive a salary for his services to be prescribed by the city council, not to exceed fifteen hundred dollars per annum.

Section 78a. The city council shall full power and authority to establish and maintain a city police or police department composed of the chief of police, a deputy chief of police, the clerks of the recorder's court, two or more sergeants, and such number of patrolmen or policemen as may be necessary, said officers and members of said police department to be elected and appointed and their compensation and duties to be fixed, defined and regulated, as the said city council may deem meet and proper. At the first regular meeting of the new city council after such biennial election, or as soon thereafter as may be, the mayor shall select and name from amongst the members thereof the four aldermen who received the highest number of votes at the preceding election, who, together with himself, shall constitute a commission to be known and designated as police and fire commission, of which commission the mayor shall be chairman. The city clerk shall be secretary of said board, and shall keep a record of its proceedings. Any two members of said commission, with the mayor, shall constitute a quorum for the transaction of business, but in the absence of the mayor the four other members of the commission shall be necessary to constitute a quorum. No member of the commission shall absent himself from any meeting of said board without good cause, and excuse for non-attendance shall be entered in the minute book of commissioners; and if at any time more than two commissioners be absent from the city or temporarily disabled from acting by sickness or otherwise, the mayor, if he believes it to be necessary, shall have the authority to appoint a new member on said board to act temporarily during the absence or disability of the member so absent. Said board of police and fire commissioners shall carefully examine all applicants for positions in either the police or fire departments as to integrity of character and physical and intellectual capacities of each applicant, and make in writing to the city council recommendations for the appointments of applicants, based on their fitness for the place applied for, and the city council shall, on receiving such recommendations, elect proper persons to fill such positions in the departments respectively as may be by it deemed wise and necessary: Provided, however, that so far as it may be practicable and consistent with good order, discipline and improvement of the public service, it shall be the duty of the board of commissions to prefer, in recommendations to the city council for appointment to the police and fire departments, respectively, those men who have proven themselves capable, good and efficient in the performance of their duties, and the city council shall give due weight to such recommendations. All such persons as may be by the city council elected, shall hold their positions for two years or during good behavior, subject to suspension or dismissal for cause after a hearing by the commission, which is hereby invested with exclusive jurisdiction in the premises: Provided, however,

that the chief of police and chief of the fire department shall have the power to temporarily suspend any subordinate officer or member of their departments, respectively, for reasons satisfactory to said chief of police or fire department, as the case may be, and to appoint some person to discharge the duties of such suspended officer or member until the grounds of such suspension can be inquired into by the police and fire commissioners; and it shall be the duty of the chief in whose department such suspension shall occur to report same in writing, within five days, with the reasons therefor, to the commissioners, and to notify the suspended officer or member thereof. No person, except as provided herein, shall be authorize to act as a policeman or fireman until he shall have been duly elected as such by the city council, and has qualified by taking the oath prescribed by the Constitution of the State and given a bond with sureties, to be approved by the mayor, in the sum of five hundred dollars, payable to the city of Galveston, conditioned for the faithful discharge of his duties: Provided, however, in case of emergency or necessity the mayor may appoint persons supernumeraries who have been previously examined by the board of police and fire commissioners and favorably passed upon by said board, and the persons thus appointed, while on active duty, shall have all the authority of a regularly elected and qualified policeman or fireman. All persons appointed supernumeraries shall, before acting as policeman or fireman, take the prescribed oath and furnish a good and sufficient bond as herein provided for members of the police and fire departments regularly elected by the city council. The board of police and fire commissioners shall be and are hereby invested with exclusive jurisdiction to hear and determine any and all charges against any member of the police or fire department for infractions of discipline, disobedience of orders, for incompetency, for corruption, for malfeasance or nonfeasance in office, for violation of any of the rules or regulations prescribed by the city council for the government of said police and fire department, or for any conduct unbecoming an officer or member of the said departments respectively; and every officer and member of the police and fire departments shall obey all lawful rules and regulations prescribed by the city council, on pain of dismissal or such lighter punishment either by suspension, reduction or forfeiture of pay or otherwise, as the board of police and fire commissioners may adjudge: Provided, however, that all charges or complaints against the chief of police or the chief of the fire department shall be heard and determined by the city council, as provided in sections 150, 151, 152, 153 of this charter for the trial of the mayor or any alderman. The commissioners shall have power to administer oaths, to summon and compel the attendance of witnesses before them, and to examine such witnesses upon any matter where it may be necessary to the discharge of their duties, and they shall report to the city council at its first regular meeting in each month the expenses incurred by their departments, and the suspensions and removals therein during the preceding month: And provided, further, that any member of the police or fire department who, after trial by the board of police and fire commissioners, shall be dismissed or removed from his office by the said commissioners, and said act of dismissal or removal shall be approved by the city council, shall not be eligible for appointment to his former or any other position whatever under the city government.

Section 113. The city council shall have power and authority to establish and maintain a fire department; to procure fire engines and other apparatus for the extinguishment of fires, and provide engines houses for keeping and preserving the same; and said fire department shall be composed of a chief of the fire department, assistant chief of the fire department, and such number of firemen as may be necessary. The officers and members of said fire department to be appointed and their compensation and duties to be fixed, defined and regulated as provided for in section 78a of this charter: And provided, that the compensation of the chief of the fire department for his services shall not exceed the sum of two thousand dollars per annum as provided for in sections 78a and 78b of this charter.

Section 132c. The city shall have power to issue bonds to the amount of one million two hundred and forty thousand dollars of the denomination of one hundred dollars or any multiple thereof, payable forty years after date of their issue, and bearing interest payable semi-annually at a rate not exceeding five per cent per annum; said bonds to be sold for cash at not less than par, and the proceeds thereof to be used and expended as follows:

Two hundred thousand dollars shall be used in defraying the city's portion of the cost of filling, grading and paving its streets as elsewhere provided in this charter: Provided, that not more than one hundred thousand dollars shall be expended on such work by the city in any one year from this fund, or from the proceeds of the issue of bonds authorized by this section.

Forty thousand dollars shall be used and expended for filling streets, and such property as the city may own, and which the city council may designate to be filled or raised; the expenditures out of this fund not to exceed in any one year twenty thousand dollars.

Fifty thousand dollars shall be employed and expended in the erection of public school houses in said city, under the direction and upon the requisition of its board of school trustees; and the interest and the sinking fund necessary to meet the fifty thousand dollars of the bonds so appropriated shall be provided for as is by this section provided for the other bonds herein authorized to be issued, and the city council are hereby authorized to amend the budget for the year 1895 to conform herewith.

Fifty thousand dollars shall be and constitute a special fund to be used and expended by the city council in abating nuisances on private property, and for filling, grading and paving or otherwise improving alleys and sidewalks in said city, in all cases where the parties chargeable with the abatement of such nuisance or with such filling, grading, and paving or other improvements shall fail or refuse to abate the one or perform the other; and any expenditure from this fund shall be a lien, and recoverable by assessment on the property in respect of and concerning which they shall be made, and when so recovered they shall be and remain a portion of such special fund.

Nine hundred thousand dollars shall be employed and expended by the city council for and in procurement of an adequate supply of fresh water for said city, and in and for the erection of an efficient system of sewerage and drainage, including crematories for garbage if found desirable, and for the city's share of the cost of filling, grading and paving

its streets, under the following provisions: the city council shall on or before January 1, 1892, apportion said nine hundred thousand dollars as follows:

First. So much of said sum as to said council may appear necessary shall be set aside for the procurement of said water supply, to be owned by the city or furnished under contracts that may be entered into by the city with responsible parties.

Secondly. So much of the remainder of said sum, if any, as to the council may appear necessary shall be set aside for sewerage and drainage purposes; and

Thirdly. The residue, if any, after a water supply and system of sewerage and drainage shall have been provided for as above contemplated, shall be set aside to defray the city's share of the cost of filling, grading and paving its streets.

When the special fund of two hundred thousand dollars aforesaid shall have been expended a fund shall be provided to pay the interest and create a sinking fund to redeem said bonds, which fund shall not be diverted or drawn upon for any other purpose, and the city treasurer shall honor no drafts on said fund except to pay the interest upon or to redeem the bonds for which it was provided. Said bonds shall be signed by the mayor and countersigned by the city clerk, and shall be payable at such place as may be fixed by ordinance of the city council. It shall be the duty of the mayor when such bonds are issued to forward the same to the Comptroller of State, whose duty it shall be to register them in a book kept for that purpose and to endorse on each bond registered his certificate of registration. The indebtedness provided for in this section shall not be limited or governed by the provisions or limitations contained in sections 28, 132, 132a or 132b of this charter.

Section 127. The city council shall have full power and authority to raise, fill, grade, repair or otherwise improve any avenue, street, alley or sidewalk, or any portion thereof, in the corporate limits of said city, to such extent, and out of such material, and under such regulations, as said council may provide, whenever two-thirds of the aldermen elected vote in favor of such improvement: Provided, that except as hereinafter prescribed the owners of the property fronting or abutting on such avenue or street so improved shall pay two-thirds and the city one-third of the cost thereof, and the owners of property abutting on any alley or sidewalk so improved shall pay the entire cost of such improvement: And provided, also, that when any person, corporation or company owns or operates any street railway, or railway of any kind, on such avenue or street, such person, corporation or company shall pay one-third of the cost of filling, raising, paving, repairing, or otherwise improving that part of the said avenue or street so improved, and the owners of fronting or abutting property the other two-thirds; and the said city shall be relieved of its pro rata so paid by the owners or operators of such roads: And provided, also, that the city shall pay for all street intersections from lot to lot across the streets either way so improved, except when occupied or used by said railways, in which event one-third of the cost thereof must be paid as above provided by the owners or operators of said railways. Property owners shall pay the entire cost of all curbing. The cost of such improvement owing by property owners and the owners and operators of

railways, together with the expense of collecting the same, shall be a special tax and lien against the lot or lots or blocks fronting or abutting upon the thoroughfares or ways improved, and against the road bed, ties, rails, fixtures, rights and franchises of such street or other railways that may be operated or located thereon; and they shall be due and payable by said property owners and the owners and operators of railways in five equal annual installments or less, at the option of such property owners and owners and operators of railways, all of which shall draw interest from the date of assessment until paid at the rate of six per cent per annum. The first installment shall be due and payable immediately after the completion of such improvement, and an installment equal thereto shall become due and payable annually thereafter until the entire amount is paid; and a failure to pay any one of the annual installments within sixty days after the same has become due shall cause all the unpaid installments to at once mature. All repairs and temporary improvements of avenue, streets and alleys shall be at the cost of the city; but the word "repairing," as here used, shall apply only to small or ordinary defects in avenues, streets or alleys that have been put to grade and paved or otherwise improved; and the city council are hereby authorized and required to set aside annually out of the general revenues of said city a sum equal to not less than one-twentieth of one per cent on the one hundred dollars valuation of all property within said city not exempt from taxation, which fund to be so set aside in the annual budget shall be used only for such repairs and temporary improvements. Permanent street improvements, within the meaning of this act, shall be only such as are constructed of blocks or granite, blue limestone, trap rock, thoroughly creosoted wood, thoroughly vitrified brick, or of Trinidad asphaltum, or other asphaltum equal to it in quality; but repairs to the same shall not be classed or paid for out of funds provided for such permanent improvement. The city council are hereby empowered and required to set aside in the annual budget a fund to an amount not exceeding one-fourth of one per cent on the one hundred dollars valuation of all property within said city subject to taxation, which shall be used exclusively for the payment of the city's share of the cost of such permanent improvements.

Section 128. The board of public works, before beginning any such improvement, shall, for the purpose of acquiring the most reliable information practicable of the probable cost thereof, cause an estimate to be made of said probable cost by the city engineer or by some other officer of the city, or by a committee of the board; and such officer or committee shall also report a full list of all fronting or abutting lots, with number and size of same and number of block in which situated, and the name of the owners thereof, and such other information as may be required by the city council; and if it be a street or avenue the improvement whereof is contemplated, and any person, corporation or company owns or operates a street railway or railway of any kind thereon, such officer or committee shall also report in said list the name of such person, corporation or company, and if there be any lot or fractional lot the owner whereof is not known the same shall be entered in said list as unknown; and said officer or committee shall enter in said list opposite each lot or fractional lot lying and being on each side of the street, avenue or alley the improvement whereof is contemplated, or if the im-

provement of a sidewalk is contemplated, then opposite each fronting or abutting lot or fractional lot, such portion or so much of the estimated cost or expense of such work or improvement on said avenue, street, alley or sidewalk as the owner of said lot or fractional lot is required under the provisions of section 127 of this charter to pay, and shall also enter into said list opposite the name of the person, corporation or company owning or operating such railway or railways such portion of the cost or expense of such work as is under section 127 chargeable to said owner or operator. Upon consideration of said report of said officer or committee the council, to whom the same shall be submitted, shall determine whether or not the said work or improvement shall be made, and shall proceed accordingly. When said work or improvement is ordered by the council and shall have been completed the board of public works shall cause an accurate report of the cost thereof to be made by said officer or committee to the city council. As part of said report said officer or committee shall present a list of the lots or fractional lots lying and being on each side of the street, avenue or alley so improved, or in case of a sidewalk then of the lots or fractional lots fronting or abutting thereon, and upon such lists of lots or fractional lots shall be entered opposite each lot or fractional lot such portion or so much of the actual cost and expense of such work or improvements on said avenue, street, alley or sidewalk abutting, fronting, adjoining or opposite such lot or fractional lot as the owner thereof is required under the provisions of section 127 of this charter to pay; and opposite the name of the person, corporation or company owning or operating the railway on the avenue or street or portions thereof so improved the cost and expense chargeable to said person, corporation or company under the provisions of section 127 of this charter; and upon the acceptance and approval of said report and list by the city council, said amount shall be imposed, levied and assessed by the said council on or against said lots or fractional lots, and on or against the road bed, ties, rails, fixtures, rights and franchises of said railways respectively, and shall be collected by the collector as herein provided, and shall be a lien upon the property until paid.

Section 129. That after such action on the part of the city council as above provided for the collector shall give notice of the first installment of said assessment being due, and within what time payable, and shall commence forthwith to collect the same and shall annually thereafter give thirty days notice and then proceed to collect the installments as they fall due. That after the expiration of the period for payment of said assessment or any installment thereof said officer shall levy on so much of any property on said list on which any installments have not been paid as will be sufficient to pay the same, and the same notice of sale as is required in sales for taxes shall be given. And if said assessment or unpaid installments are not paid before the day of sale, said officer shall sell said property in the manner and under the circumstances and to the extent and subject to the same conditions which are or may be provided by ordinance for the sale of real estate in the city of Galveston charged with, the payment of taxes imposed by said corporation; and said officer shall execute a deed to the purchaser at any such sale, and the provisions of this act in reference to the deed drawn by the collector for taxes shall apply to the deed provided for in this section. If suit is brought to re-

cover said assessments or any installments thereof, and to foreclose the lien thereof, then an additional amount of ten per cent of and upon the principal and interest of the amount due shall be collected.

Section 132d. In addition to the power to issue one million two hundred and forty thousand dollars of bonds as provided for in section 132c of the present charter, the said city shall have the power to issue bonds to the amount of two hundred thousand dollars (\$200,000) of the denomination of one hundred dollars or any multiple thereof, payable forty years after the date of their issue, bearing interest at a rate of not to exceed five per cent per annum, payable semi-annually, and said bonds shall be sold at not less than par, and the net proceeds thereof shall be used exclusively for the cash payment by the city of that part of the cost of permanent street improvements owing by property and railway owners and operators, imposed, levied and assessed under and in accordance with section 127 and 128 of this charter. Said bonds or the proceeds thereof shall be used and expended only for paying the property and railway owners' and operators' share of the cost of permanent street improvements, for which assessments are levied and imposed under and in accordance with said sections 127 and 128, and whatever liens or other assets shall accrue to said city by the expenditure thereof shall also be a security for said bonds, and when said liens are satisfied and assets realized upon, the proceeds thereof shall also be for the benefit and security of said bonds; and the lien thereof shall follow and attach to any property improved by a reinvestment of the proceeds of such liens and assets, which, however, shall be used only as the bonds or proceeds thereof are used, viz.: for the payment of the property and railway owners' and operators' share of the cost of such improvements, it being the intention of this act that said bond shall not only be secured by the general credit of the city of Galveston, but also by an additional security consisting of whatever liens and assets the city may have from time to time as the result of such improvements, so that upon the maturity of said bonds all such liens and assets as are then outstanding shall, if required, be realized upon and applied to the satisfaction of said bond; and a fund shall be and is hereby provided to pay the interest and create a sinking fund to redeem said bonds, which fund is hereby fixed at not less than two and one-half per cent of the amount of the bonds outstanding, and an equivalent amount shall be set aside annually out of the collection of assessments or installments thereof, and shall not be diverted or drawn upon for any other purpose, and the city treasurer shall honor no drafts on said fund except to pay the interest or to redeem said bonds, or to provide for the safe investment of said sinking fund in any bonds of this city or of the United States or State government. In addition to the foregoing the said city shall also have power to issue bonds to the extent of one hundred thousand dollars (\$100,000) of the denomination of one hundred dollars (\$100) or any multiples thereof, payable forty years after the respective dates of their issue, and bearing interest payable semi-annually at a rate not exceeding five per cent per annum; said bonds to be sold as needed for cash at not less than par, and the proceeds thereof to be used and expended as follows: In erecting a pumping station at or near the source of the fresh water supply; for the construction of a large storage tank in connection with the fresh water supply; for the extension of the water mains in the city of Galveston for said fresh water

supply; all to be expended under the direction of the board of water commissioners of Galveston. In addition to the foregoing the said city shall also have power to issue bonds to the amount of two hundred thousand dollars of the denomination of one hundred dollars or any multiple thereof, payable twenty years after date of their issuance, with the privilege of paying the same at any time on or after ten years from such date, and bearing interest payable semi-annually at a rate not exceeding five per cent (5%) per annum, said two hundred thousand dollars of bonds to be sold for cash at not less than par, and the proceeds thereof to be used for the payment of the present existing floating general indebtedness of the city. In addition to the general taxation to provide for the payment of this issue of two hundred thousand dollars of bonds, sixty-six and two-thirds (66 $\frac{2}{3}$) of all collections from all back taxes past due January first, 1894, and still unpaid, shall be a special fund to be held and applied only to the payment of said two hundred thousand dollars of bonds until same are paid. In addition to the foregoing the said city shall also have the power to issue bonds to the amount of fifty thousand dollars (\$50,000) of the denomination of one hundred dollars (\$100) or any multiple thereof, payable forty years after date of their issuance, and bearing interest payable semi-annually at a rate not exceeding five per cent per annum; said bonds to be sold for cash at not less than par, and the proceeds thereof to be used and expended in the erection and equipment of public school houses in said city under the direction and upon the requisition of its board of school trustees. A fund shall be provided from the general and municipal revenue of the city to pay the interest and create a sinking fund to redeem said bonds, which fund shall not be diverted or drawn upon for any other purpose, and the city treasurer shall honor no drafts upon said fund except to pay the interest upon or to redeem the bonds for which it was created. All of said bonds shall be signed by the mayor and countersigned by the city clerk, and shall be payable at such place as may be fixed by ordinance of the city council. It shall be the duty of the mayor when such bonds are issued to forward the same to the Comptroller of State, whose duty it shall be to register them in a book kept for the purpose and to endorse on each bond registered his certificate of registration. The indebtedness provided for in this section shall not be limited or governed by the provisions or limitations contained in sections 28, 132, 132a or 132b of this charter.

Sec. 2. The fact that the next election of officers and aldermen of the city of Galveston takes place before the expiration of the ninety (90) days after the adjournment of this Legislature, at which time according to the Constitution this act would take effect, creates an emergency and public necessity that the constitutional rule requiring bills to be read on three several days be suspended and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 12th day of April, A. D. 1895, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

CORPUS CHRISTI WATER SUPPLY COMPANY.

CHAP. 4.—[H. B. No. 740.] An act to grant to S. M. Leary, N. Gussett, E. A. McCampbell and D. Reid, comprising the Corpus Christi Water Supply Company, the right to construct a dam across the Nueces river.

Section 1. Whereas, the people of Corpus Christi obtain their water supply from the Nueces river; and

Sec. 2. Whereas, the water at times becomes salt and unfit for use because of the inflow of water from the bay into which the river empties; therefore,

Be it enacted by the Legislature of the State of Texas: That the said S. M. Leary, N. Gussett, E. A. McCampbell and D. Reid, be and the same are hereby authorized to erect a dam across said Nueces river at some place between its mouth and a point fifteen miles above.

Sec. 3. The near approach of the close of the present session of the Legislature and the fact that said dam may be needed at almost any time, creates an urgent public necessity and emergency which authorizes the suspension of the constitutional rule requiring bills to be read on three several days, and the same is hereby suspended, and this law be and is hereby declared to be in effect from and after its passage.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 29th day of April, A. D. 1895, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

DALLAS CITY CHARTER.

CHAP. 5.—[S. B. No. 258.] An act to amend sections 2, 20, 24, 29, 43, 138, 144, 148, 156 and 159 of an act entitled "An act to incorporate the city of Dallas, and to grant it a new charter," approved March 13, 1889, and to add thereto sections 154a, 154b, 154c, 158a and 159a, and to repeal section 185 of said act, and also to amend section 158 of an act entitled "An act to amend sections 10, 21, 28, 94, 120, 140, 158 and 161 of an act entitled 'An act to incorporate the city of Dallas and to grant it a new charter,' approved March 13, 1889, passed by the Twenty-second Legislature and certified to by the Secretary of State March 9, 1891, and also sections 120 and 161 of an act entitled 'An act to amend sections 6, 8, 9, 10, 14, 15, 61 and 185 of an act entitled 'An act to incorporate the city of Dallas and to grant it a new charter,' approved March 13, 1889,' and section 161 of said act as amended in 1891, and to repeal section 10 of an act entitled 'An act to amend sections 10, 21, 28, 94, 120, 140 and 158 of an act entitled 'An act to incorporate the city of Dallas and to grant it a new charter,' approved March 13, 1889, passed by the Twenty-second Legislature and certified to by the Secretary of State on March 9, 1891, and to repeal all conflicting laws; and to conform same to the objections of the Governor in his veto message of March 18, 1893," passed by the Twenty-third Legislature, and certified to by the Secretary of State April 12, 1893, and to repeal all conflicting laws.

Section 1. Be it enacted by the Legislature of the State of Texas: That sections 2, 20, 24, 29, 43, 138, 144, 148, 156 and 159 of an act entitled "An act to incorporate the city of Dallas, and grant it a new charter,"

approved March 13, 1889, be amended so as to hereafter read as follows, and that sections 154a, 154b, 154c, 158a and 159a be added to said act as follows, and that section 185 of said act be and is hereby repealed, and that section 158 of an act entitled "An act to amend sections 10, 21, 28, 94, 120, 140, 158 and 161 of an act entitled 'An act to incorporate the city of Dallas, and to grant it a new charter,' approved March 13, 1889, passed by the Twenty-second Legislature, and certified to by the Secretary of State March 9, 1891, and sections 120 and 161 of an act entitled 'An act to amend sections 6, 8, 9, 10, 14, 15, 61 and 185 of an act entitled an act to incorporate the city of Dallas, and to grant it a new charter,' approved March 13, 1889, and section 161 of said act, as amended in 1891, and to repeal section 10 of an act entitled "An act to amend sections 10, 21, 28, 94, 120, 140 and 158 of an act entitled an act to incorporate the city of Dallas and to grant it a new charter," approved March 13, 1889," passed by the Twenty-second Legislature and certified to by the Secretary of March 9, 1891, and to repeal all conflicting laws, and to conform same to the objections of the Governor in his veto message of March 18, 1893," passed by the Twenty-third Legislature, and certified to by the Secretary of State April 12, 1893, be amended so as to hereafter read as follows:

Section 2. That the bounds and limits of said city are hereby established and described as follows:

Beginning on the east bank of Trinity river at low water mark and midway between Commerce street and Main street; thence southerly with the meanderings of said river to the southeast boundary line of the A. C. McDaniel survey; thence in a course about N. 45 degrees E. with said southeast boundary line of the A. C. McDaniel survey to the northeast line of right of way of the Houston and Texas Central railway main track, a distance of 4250 feet more or less; thence northwesterly with said right of way line of the Houston and Texas Central railway main track, a distance of 7190 feet, more or less, to the southeast boundary line of East Dallas; thence with said southeast boundary line of East Dallas about N. 45 degrees east 9550 feet, more or less, to Fitzhugh avenue; thence along Fitzhugh avenue north 45 degrees, west 8300 feet, more or less, to Flora street; thence along Flora street south 45 degrees west 3150 feet, more or less, to Haskell avenue; thence along Haskell avenue N. 45 degrees west 5350 feet, more or less, to Preston avenue; thence southwest along Preston avenue 360 feet, more or less, to a point the northeast boundary line of Bowser and Lemon's Oak Lawn and North Dallas addition to the city of Dallas; thence with the northeast line of Bowser and Lemon's Oak Lawn and North Dallas addition to the city of Dallas to the southeast side of Argyle avenue, a distance of 2040 feet, more or less; thence with the southeast side of Argyle avenue about south 45 west to the southwest side of Cedar Springs road, a distance of 2750 feet, more or less; thence with the southwest side of Cedar Springs road about south 45 east to the southeast side of Oak Lawn avenue, a distance of 210 feet, more or less; thence south 45 west with the southeast line of Oak Lawn avenue 2400 feet, more or less, to the northwest line of Maple avenue; thence north 45 west along the northwest line of Maple avenue 688.8 feet; thence south 45 west 1507 feet to the northeast line of the right of way of the Dallas and Wichita railway; thence southeast along the northeast line of right

of way of Dallas and Wichita railway to a point where the prolongation of the southeast line of Oak Lawn avenue intersects the said right of way line; thence south 45 west along the prolongation of Oak Lawn avenue to the southwest line of right of way of Dallas and Wichita railway; thence northwesterly along said southwest line of said right of way 700 feet, more or less; thence south 45 west 1700 feet, more or less, to a stake; thence south 45 east 150 feet, more or less, to the bank of the Trinity river; thence southeast along said bank of the Trinity to the mouth of Turtle creek; thence easterly along Turtle creek to the southwest line of right of way of Dallas and Wichita railway; thence southeasterly with the southwest line of right of way of Dallas and Wichita railway to the northwest side of Payne street; thence with the northwest side of Payne street extended to the original corporation line of the city of Dallas 770 feet, more or less; thence with said original corporation line about south 76 west to low water mark of Trinity river 1200 feet, more or less, thence southerly with the meanderings of said river to place of beginning.

Section 20. The other officers of the city shall be a treasurer, an assessor, a collector, a city secretary, a city judge, a city attorney, a chief of police, a city engineer, a city health officer, a superintendent of water works, an auditor, and such other officers or agents as the city council may direct, all of whom, except the assessor, collector, city judge and chief of police shall be elected by the city council as the present terms of such officers expire, and every two years thereafter: Provided, that the regular time for electing such officers by the council or such of them whose terms have expired, shall be at the first regular meeting of the city council in May after the installation of the newly elected members of said council after each regular annual election. This section shall not be construed to interfere with the terms of any person now occupying any of said offices. All officers elected by the council shall hold their offices for two years and until their successors are elected and qualified. They shall give such bonds as the city council may require, and perform such duties as are herein provided and as may be prescribed by the city council. That at the first regular meeting of the council after its organization after each annual election, as provided in this section, the mayor shall appoint a committee to be known as an advisory board, whose appointment shall be confirmed by the council, and who shall all be citizens and tax payers of the city, and who shall never at any time be in any way interested in any contract or transaction with the city, and who shall hold their positions for one year and until their successors are appointed and confirmed. Said board shall be advisory to the council in all matters transacted by the council involving the expenditure of the city money where the amount shall be two thousand dollars or more.

Section 24. The mayor shall be elected and hold his office as hereinbefore provided. He shall be the chief executive officer of the city. He shall have power to appoint special policemen for any special occasion, and call out the militia and military in the city for the suppression of any riot or public disturbance. He shall be active in enforcing the laws and ordinances of said city. He shall from time to time give the council information about the condition of affairs, and recommend for consideration such measures as he deems best for the city. He shall have, by the advice and consent of the council, power to appoint experts to

examine the affairs of any department of the city when he thinks it necessary. In all cases of the examination of charges against any officer or employe of the city, election contest, etc., he shall have power to administer oaths, subpoena and compel the attendance of witnesses and the production of books and papers. He shall sign all contracts or obligations of the city. He shall have the power to veto any resolution, by-law, motion or order passed by the city council, by filing his written objections thereto, within three days after the passage thereof, Sundays and day of passage to be excluded. At the next regular meeting, or as soon thereafter as practicable, the council shall consider such objections, and unless the council pass the measure over his veto by a two-thirds vote of the aldermen present, taken by yeas and nays, such measure shall be of no effect, but when any matter is passed over the veto of the mayor by the council, the same shall be final and binding upon the city without further action by the mayor, provided the same is otherwise legal, and such action is not afterwards reconsidered by the council. The mayor shall have power to require any officer of the city to exhibit his books and papers, and a refusal of any officer, when so required, shall be deemed a forfeiture and abandonment of said office. The mayor shall have and exercise such other powers and perform such other duties as may be conferred or required by the city council, not inconsistent with this charter.

Section 28. In lieu of the office of recorder of the city of Dallas there is hereby created the office of city judge. Said city judge shall be a resident of said city and a qualified voter therein. He shall be a person learned in the law. He shall be elected by the qualified voters of the city, and shall hold his office for two years, and until his successor is elected and qualified. He shall preside over and hold said court, and discharge all the duties thereof. This section shall in no way interfere with or change the term of office of the present city judge.

Section 29. He shall have full power and authority to enforce all powers of said city court. He shall have full power to issue subpoenas for witnesses and to compel their attendance by process of attachment. He may punish all contempts of his court by fine and imprisonment, or either; he may issue subpoenas, writs of *capias*, warrants of arrest, search warrants, executions, and all processes known to law which State courts in such cases may issue. He may require of any person arrested a bond for his or her good behavior, and to keep the peace, or for his or her appearance before said court, with two good and sufficient sureties, which bonds, as well as all other bonds taken in any proceedings in said court, shall be payable to the city of Dallas. He shall have full power to administer official oaths and affirmations and give certificates therefor. The city council may determine what costs, if any, shall be charged for proceedings in and for all processes issued by said court, and shall allow the judge thereof for his services such compensation as they may deem just. He shall perform all the duties herein required, and such other duties as may be prescribed by ordinance not inconsistent with the Constitution of this State. All fines imposed by said court shall be paid into the city treasury for the use of the city. The city council may, if they deem it necessary, provide said court with a clerk and seal. In cases of temporary failure to act, for any cause, on the part of the city judge, the mayor is hereby authorized to appoint some person qualified,

who shall discharge the duties of said office and receive the pro rata compensation due therefor; and in such cases the mayor may appoint a member of the city council otherwise qualified: Provided, such member shall not be entitled to receive compensation as judge and alderman at the same time. The provisions herein referring to said city judge shall not be construed to interfere with the term of the present city recorder until the time for which he was elected has expired.

Section 43. The city council shall be composed of the mayor and aldermen provided for in this charter. The mayor shall be president of the council and in case of a tie on any question he shall give the casting vote, but in elections he shall vote as other members of the council. At the first meeting of each new council, or as soon thereafter as practicable, the council shall elect one of the aldermen mayor pro tem., who shall hold his office for one year. In case of failure, inability, or refusal of the mayor to act, the mayor pro tem. shall perform the duties and receive the fees and compensation of the mayor. In the absence of the mayor and mayor pro tem. any one of the aldermen present may be appointed to preside.

Section 120. The council shall have power to appropriate so much of the general revenue of the city for the purpose of retiring and discharging the accrued indebtedness of the city, and for the purpose of improving the streets, constructing sewers, erecting and maintaining public buildings of every kind, water works, and for the purpose of erecting, maintaining and operating an electric light plant, etc., as the council from time to time deem expedient, and in furtherance of any and all these objects the city shall have the right and power to borrow money upon the credit of the city, and to issue coupon bonds of the city therefor in such sum or sums as may be deemed expedient, to bear interest not to exceed six per cent per annum, payable semi-annually, at such place or places as may be designated by the city ordinance: Provided, that the aggregate amount of said bonds shall at no time exceed two million five hundred thousand dollars.

Section 138. If the assessor shall discover any real or personal property which was subject to taxation for any previous year, and which from any cause has escaped taxation for that year, or which has been improperly assessed, insufficiently described, or assessed in the name of some person other than the real owner, if such owner be known, in any previous year, he shall assess the same in a supplemental roll at the same rate under which such property should have been assessed for such year in the name of the person or persons who own the same on the first day of January of such year, if known, and if unknown shall so state, stating the year and the taxes thereon, and such taxes shall be collected in the same manner as other assessments: Provided, that such supplemental rolls shall be made at any time and reported to the city council for its approval, and any number of such rolls may be made that may be necessary. The taxes assessed in such supplemental rolls for years previous to the approval of such rolls shall be due at once upon the approval of such rolls by the city council, and such taxes shall bear interest at the rate of ten per cent per annum from the date on which the same would have been delinquent if levied and assessed at the time other taxes for such previous year were levied and assessed, and if the same shall not be paid by the expiration of thirty days after the date of such approval, the

city collector shall proceed to collect the same by the advertisement and sale of such property as soon as practicable. Such advertisement and sale to be made in the same manner and for the same time as in cases of the sale of such property for other city ad valorem taxes as prescribed by the city charter: Provided, that a misnomer of or failure to name the owner in the assessment rolls shall not affect the validity of the assessment of any taxes: And provided, further, that where such taxes have not been attempted to be assessed for such previous year, such taxes shall bear interest only from the date of the approval of such supplemental rolls.

Section 144. No demand for taxes shall be necessary, but it is hereby made the duty of every person or corporation subject to taxation to attend at the office of the collector some time between the second Monday in June and November the first in each year and pay his or her taxes. If any one fails to pay them before the first day of November, the same shall be delinquent and bear interest at the rate of ten per cent per annum thereafter: Provided, that the city council may extend the time of payment of same to the first day of the following January, if they deem it expedient.

Section 148. The collector shall, where any real estate has been sold for taxes, make and execute a deed to the purchaser of the property sold, which deed shall be prima facie evidence of the following facts:

First. That the lot or lots or property conveyed was or were subject to taxation and assessment at the time of such sale, and at the time the taxes thereon were levied and assessed, and that such taxes were regularly levied and assessed in all respects according to law.

Second. That such taxes were not paid in whole or in part at any time before such sale, and that a lien existed on the property conveyed in such deed for such taxes.

Third. That the real estate therein conveyed was advertised according to law.

Fourth. That the property conveyed was regularly and lawfully sold for taxes which were delinquent at the time of the advertisement and sale.

Fifth. When such property shall have been sold to the city of Dallas at such sale, either for general or special taxes, the title acquired by the city shall not be disputed by any person whomsoever, or for any cause whatever, except upon tender to said city of the taxes lawfully due on such property for which such sale was made, together with lawful interest thereon and all accrued penalties and costs, as provided by the city charter of the city of Dallas.

Section 154a. If the city council deem expedient it may by resolution duly passed at the time of ordering street improvements of the character mentioned in section 154 of this charter, provide for the payment of such portion of said improvements as are provided in said section to be paid for by the owners of abutting property and street and other railroads in any number of equal annual installments not exceeding ten. Such resolution shall state the number of installments in which such cost shall be paid, and when the city council shall determine that such cost shall be so paid in installments the advertisement for bids for making the improvement shall state that such cost is to be so paid, and the number of installments in which such payments are divided; and upon the final com-

pletion of the work and improvements done under one contract, and the acceptance thereof by the city council, said council shall issue to the contractors for such work certificates showing the amounts due upon each lot or subdivision of land abutting on the street so improved, and the date when such certificate shall become due, and the date of the approval or final passage of the ordinance assessing special taxes for payment of such improvement, and that such certificate is secured by a lien on such lot or subdivision of land, and such certificate shall bear interest at a rate not exceeding eight per cent per annum from the date of their issuance, said interest being payable annually; and the holder of any such certificates shall have a lien on the lots or subdivisions of lands therein mentioned to secure the payment thereof; and if such certificate is not paid when due the entire series of such certificates due for the tax on such respective lot or subdivision of land shall at once become due and payable, and the city collector shall proceed upon the request of the holder of any one of such series of certificates to advertise and sell such lots or subdivisions of land, and the proceeds of such sale, after deducting the cost of advertisement and sale, shall be divided pro rata among the holders of the series of certificates secured by a tax on such respective lot or subdivision of land according to the amount due on each respective certificate, and the remainder thereof, if any, shall be paid to the owner of such land. The ordinance levying such taxes shall specify the number of payments into which such tax is divided, and that the first of such installments shall become due immediately upon the passage of such ordinance and delinquent thirty days thereafter, and each subsequent installment thereof shall become due annually after the passage of such ordinance on the same month and day in each respective year after the passage of such ordinance that such ordinance was passed until all of such installments shall become due, and that if any such installment or the interest thereon shall not be paid when due, the entire series of installments secured by a lien on the respective lot or subdivision of land the installment or interest upon which shall be in default shall at once become due and delinquent. If, however, the city collector shall not at once proceed to collect such special taxes by advertisement and sale as herein provided, the interest on such certificates shall continue to run at the same rate until the payment thereof or the sale of such property, notwithstanding such default: Provided, that the owner of any property so assessed may pay such certificate issued for such assessment at any time after the levy of such special tax, paying only in addition to the principal such interest as shall have accrued at the date of such payment.

Section 154b. The city of Dallas shall not in any event bind itself or become bound to pay any portion of the cost of any street improvement, except as provided in section 154 and section 154a of this charter; but the city council shall pass all lawful ordinances necessary for the levy and collection of a special tax or special taxes to pay the same; and in case of its refusal, any person injured thereby shall be entitled to compel the passage of such ordinance by legal proceedings. In case of the sale of any land or real estate for the payment of special taxes of any character, the owner of such property, or his agent or attorney, shall have the right to redeem the same at any time within two years next after the date of such sale by paying to the purchaser at such sale, or his heirs, assigns or legal representatives, as the case may be, the amount

paid by such purchaser, with interest at the rate of ten per cent per annum from the date of said sale; or in case the same is bid in by said city, by paying the full amount of such special tax, together with all lawful interest thereon, and two dollars and fifty cents for the cost of advertising and making such sale. At the expiration of said period of two years from the date of said sale, the title to such property shall become absolute in the purchaser, unless the same shall have been redeemed as herein provided.

Section 154c. No injunction shall ever be granted by any court to restrain or enjoin the collection of any special tax levied by the city council for any purpose whatever, except upon the payment by the party seeking such injunction of the full amount of such special tax justly and legally due; and if the court shall find that such tax was irregularly levied or assessed, or that the same is excessive, or was levied or assessed in an improper manner, the court shall have power to correct such irregularity, and to reduce the amount of such levy to conform to the requirements of justice in the case, and to require the payment of such corrected amount as a condition precedent to the issuance of such injunction.

Section 156. The city council shall fix and determine the nature and extent of sidewalk improvements, and decide as to the kind of material to be used. The cost of constructing all sidewalks, including curbing and guttering and the keeping the same in repair, together with the cost of collection, but not including the grading, shall be defrayed entirely by the property owners of the lots or blocks fronting on the sidewalks to be constructed, according to the number of feet frontage owned by each. Whenever the city council, by resolution or otherwise, orders the construction of any sidewalk, it shall specify the kind of sidewalk required to be constructed, and the width of same to be so constructed, and thereupon the city engineer shall issue a notice which shall be served upon the owner of such property if in the city, or if such owner shall be out of the city such notice shall be published in some newspaper published in the city of Dallas five consecutive days. Such notice shall state the place where such sidewalk is required to be constructed, the kind of sidewalk required to be constructed, and the width thereof, and the length of time, which shall not be more than thirty days from the date of the service of such notice, within which such sidewalk is required to be constructed, and that such property owner must proceed to construct the same or appear before the city council at a regular meeting thereof, giving the date of such meeting, and show cause why the same should not be constructed; and if such property owners shall not construct the same within the time required by the city council in the order or resolution of the city council requiring the same to be constructed, or shall not be excused from constructing the same by the city council, the city council shall advertise for bids for the construction of such sidewalk and shall let a contract therefor to the lowest responsible bidder, in the discretion of the council; such contract may be for any length or amount of sidewalk. As soon as practicable after the letting of such contract the city engineer shall furnish the city council a statement showing the names of the owners of the property abutting on the sidewalks so constructed, if known, if not known shall so state, and a description of the property owned by such owners and the cost of the sidewalk immediately in front of the property so improved, and such cost shall be levied and assessed

by the city council by ordinance against the property according to such statement of the city engineer, and said tax shall be a lien against such property from the date of the letting of such contract. Such ordinance shall state the amount of such tax against such respective lots or subdivisions of land and the time when the same shall become due and delinquent; and if the same shall not be paid when due, the city collector shall proceed, as soon as practicable, to advertise and sell such property for the payment of such taxes as provided in cases of sale of such property for ad valorem taxes: Provided, that it shall not be necessary that such sale shall take place at the same time as sales of property for ad valorem taxes.

Section 158. The city council shall have the power to appropriate private property for public purposes, whenever the city council of said city shall deem it necessary to take any private property, either within or without the city limits, for any of the following purposes, to-wit: In order to open, extend, change or widen any public street, avenue or alley, or for the construction of water mains or sewers, either within or without the city limits, or for the improvement and enlargement of its waterworks, including riparian rights, watersheds, reservoirs, etc., public schools, parks, squares and pleasure grounds, public wharves and landing places for steamers and other crafts, or for the straightening or improving the channel of any stream, branch or drain, such property may be taken for such purposes by making just compensation to the owner thereof. If the amount of such compensation shall not be agreed upon, it shall be the duty of the city council to cause to be stated in writing the real estate or property sought to be taken, the name of the owner thereof, and his residence, if known, and the purpose for which said property is sought to be taken, and file such statement with the county judge of Dallas county. Upon the filing of such statement it shall be the duty of such judge, in term time or vacation, to appoint three disinterested freeholders and qualified voters of the county of Dallas as special commissioners to assess the damages to accrue to the owner by reason of such condemnation. The commissioners so appointed shall in their proceedings be governed and controlled by the State laws in force in reference to the condemnation of the right of way for railroad companies, and the assessment of damages therefor, the city of Dallas occupying the position of the railroad company. And all laws in reference to the applications for the condemnation of right of way of railroad companies, including the measure of damages, the right of appeal and the like, shall apply to an application by the city of Dallas under this charter for condemnation of property for the aforesaid purposes, the city of Dallas to occupy the position of the railroad company. In estimating the damages to such property the jury shall not only estimate the value of the land so taken, but they shall also estimate the damage done to the remainder of any land from which it is taken by reason of such taking and use.

Section 158a. Provided, however, that in case of the condemnation of land for the opening, extending or widening of any street, or for straightening or improving the channel of any stream, branch or drain within the corporate limits of said city, the council may, by ordinance, provide that the cost of such property shall be paid for by the property owners owning property in the immediate vicinity thereof and benefited

thereby. In such cases the city engineer shall, under the direction of the board of commissioners appointed, make a plat of the property which, in the judgment of said commissioners, will be specially benefited and enhanced in value by the making of such improvement, whereupon such commissioners shall issue notices to the owners of such property to appear before them at a time and place to be designated in such notices, to show cause, if any they have, why such property should not be assessed to pay the cost of the property so condemned; such notices may be served by any police officer in the city of Dallas, or any other officer of the State of Texas or county of Dallas authorized by the laws of said State to serve process of the courts of said State; such notices shall be served upon the owners of such property where such owners shall be found in the city or county of Dallas; and in all cases where such owner or owners or any of them are absent from said city and county, upon the agent of said absent owner, if such owner shall have an agent in said city or county, and in case such absent owner shall not have such agent, or in case the owner of such property is unknown, then such notice shall be published for two days consecutively in some daily newspaper published in the city of Dallas; such notice shall be given five full days before the final determination by the board of commissioners of the amount of assessment against the owner of such property for such improvement; said commissioners shall determine the value of the property desired to be taken belonging to the different owners thereof, if there be more than one such owner, and if there be only one such owner the value of the same, and shall also find how much of the cost thereof shall be assessed against the owner of each lot or subdivision of land in the immediate vicinity thereof specially benefited and enhanced in value by the making of such improvement, and shall report all said matters to the city council of the city of Dallas, showing a description of the property taken and condemned and the name of the owner thereof, if known, and if the owner of any such property is unknown shall state said fact, or if there be more than one owner of such property, then the description of the property of each such owner, if known, and if unknown shall state such fact, and the value of the property of each such owner so condemned, and also the description and name of the owner of each lot or subdivision of property, if known, and if unknown shall so state, describing such property so as to identify it, against which special assessment should, in the judgment of said board, be made to pay for such property condemned, such apportionment to be made according to the benefits that will, in the judgment of said board of commissioners be received by or accrue to such lot or subdivision of property by reason of the making of such improvements. Such report shall be signed by said board of commissioners, or a majority of them, and shall be filed with the city secretary for the consideration of the city council. The city council shall, as soon as practicable after the filing of such report, consider the same, and if the same is approved by a majority vote of the members present at the meeting at which it considers the same, the same shall be final and binding upon the city and all parties at interest therein. If the city council shall approve said report it shall levy a special tax against the property shown by said report to be benefited and enhanced in value by such improvement, according to the recommendation made in such report; such taxes shall be a lien on the property against which the same shall be assessed

from the date of such levy; shall become due and delinquent at the times provided in the ordinance levying the same, and if not paid as provided in such ordinance, the city collector shall proceed to collect the same as provided in the ordinance levying the same, by the advertisement and sale as provided in the city charter in cases of the sale of such property for delinquent ad valorem taxes: Provided, that it shall not be necessary to make such sales at the same time as provided for in the sale of property for delinquent ad valorem taxes. The board of commissioners appointed under the provisions of this section shall have the same power to issue writs and subpoenas and compel the attendance of witnesses, etc., as commissioners appointed for the condemnation of land, etc., for the right of way for railroads under the general laws of the State of Texas have, shall receive the same compensation for their services, and shall be governed in all respects not herein otherwise provided by said general laws in all matters relating to their procedure. The compensation for the land and property taken or damaged under the provisions of this section shall be paid to the owner of such property so taken or damaged, or secured by a deposit set apart in money in the hands of the city treasurer subject to the order of such owner, before such property is taken or damaged: Provided, the city may make such payments out of the general fund if the council shall deem it advisable, and when the amounts assessed against the property specially benefited as herein provided are collected, may repay to said general fund the amount so advanced, and such payments shall not be a waiver of the city's right to make such collection.

Section 159. The city council shall have power to require the filling up, draining and regulating of any lot or lots, grounds or yards, or other places in the city which shall be unwholesome, or have stagnant water or filth of any kind therein, or growing of wild weeds, or from any other cause be in such a condition as is liable to produce disease or increase the danger to property from fire; also to cause all premises to be inspected and cleansed; also require the making, filling up, altering and repairing of all sinks and privies, and direct the mode and material for constructing them in the future. And said council shall have full power by ordinance to provide for the punishment of all persons failing or refusing to do any of such things, or permitting the premises occupied by them to be in a filthy and unhealthful state. When the city council shall determine that any lot, premises or subdivision of land is in such condition as to render it unhealthful or productive of disease, or liable to cause or spread fire, it shall instruct the city engineer to notify the owner thereof, by written notice, to make such improvements, repairs or alterations or do such cleaning as the council deem necessary and order to be made or done in order to abate such nuisance and render such property cleanly and healthful, and the city engineer or assistant shall, where such owner is known to him and resides in the city of Dallas, and shall not be absent from the city, serve such notice upon such owner; such notice shall state the property to be cleansed or improved and what work or improvement is required to be done upon the same. Where the owner of such property is unknown to the city engineer, and where such owner if known shall be absent from the city of Dallas, or cannot be found after reasonable search, such notice shall be published in some daily newspaper published in the city of Dallas for two consecutive days, and if the owner

of such property shall not within fifteen days after the service or publication of such notice perform the requirements of the city council, the council may have such improvements made at the cost of the city, and tax the cost of the same up against the property so improved as a special tax. Such improvement may be made in any manner provided for by the city council. When such work is completed the city engineer shall report in writing to the council the cost of such work and improvement, a description of the property upon which the same was made, so as to identify it, the name of the owner of such property where known to him, and where unknown shall so state. Where the city council shall approve such report or adopt the same, it shall by ordinance levy and assess a special tax against the property upon which such improvement is made, and said tax shall be a lien against such property from the date of the making of such improvement. Said tax shall become due and delinquent as provided in the ordinance levying the same, and if the same shall not be paid within the time provided in such ordinance the city collector shall proceed to collect the same by the advertisement and sale of such property, as provided in the city charter for the sale of real estate for the payment of delinquent ad valorem taxes: Provided, it shall not be necessary to sell the same at the same time as provided in such cases.

Section 159a. The city council shall have the power to provide for the sprinkling of streets and to require the owners of property abutting on the portion of street so sprinkled to pay the cost thereof. Whenever the council shall order, by resolution or otherwise, that any street or portion of street shall be sprinkled, its action designating between what points such street shall be so sprinkled shall be entered on the minutes of the city council, after which the council shall cause bids to be advertised for for sprinkling such street or portion of street for such length of time as the council may determine; such advertisement shall be made in such manner and for such time as the city council may provide; it shall state the street to be sprinkled and the part thereof to be sprinkled, the number of times daily, and the kind of weather during which such sprinkling shall be done. After such advertisement a contract shall be let to the lowest responsible bidder, in the discretion of the city council, and the contractor shall give such bond for the faithful performance of the contract as the council may require. Upon the completion of the performance of such contract the city engineer shall report to the city council a list of the property abutting on the portion of street so sprinkled, giving a description of the lots and parcels or sub-divisions of such land, stating the name of the owner thereof, where known, and where such owner is unknown, stating said fact, and showing the amount of such cost due from the owner of each such lot, parcel or sub-division of land apportioned according to the number of front or abutting feet of such property abutting on the portion of street so sprinkled; said cost to be prorated against such property according to such frontage: Provided, that the city shall pay the cost of the sprinkling of all street intersections so sprinkled. Upon the approval of such report by the city council, said council shall by ordinance levy a special tax against said property according to the terms of said report, and such tax shall be a lien on such property from the date of the signing of the contract for such sprinkling. Said ordinance shall provide when such tax shall become due and delinquent, and if the same shall not be paid as stated in such ordinance, the

same shall be collected by the city collector by the advertisement and sale of such property, as provided in the city charter in cases of the sale of real estate for the payment of delinquent ad valorem taxes: Provided, that it shall not be necessary to sell such property at the same time as is provided for the sale of property for delinquent ad valorem taxes: Provided, further, that the city of Dallas shall in every event become liable and bound to pay on the first day of each and every month for all of the cost of such street sprinkling so contracted for, and at street intersections and where the city shall own property abutting on the portion of the street so sprinkled: And provided, further, that the city shall collect such taxes and reimburse the city for such money paid out on street sprinkling contracts, and shall pass such legal ordinances for the enforcement of such taxes may be necessary, and that the city may become a purchaser at any sale or sales for such taxes: Provided, further, that no street shall be sprinkled as provided for in this act except upon a petition of a majority of the property owners on said street within the boundaries to be sprinkled.

Section 161. That the city public schools shall be under the management and control of a board of school directors, composed of the mayor and one member from each ward, which said members, with the exception of the mayor, shall be elected at the general elections of the city, and shall hold their office for the term of two years, and serve without compensation: Provided, that this section shall in no way interfere with the term of office of any of the present members of said board, except the members from such wards as may be changed or established prior to the next general election: And provided, that the member of said board who shall be elected from such wards as may be changed or established prior to said election shall, in such manner as said board may determine, as soon after said election as practicable, divide themselves into two classes, one of which said classes shall serve for one and the other for two years, and until their successors are elected and qualified. The members of said board elected at each annual election shall qualify and enter upon their duties as such members on the first Monday in July next after such election, or as soon thereafter as practicable. Any vacancy on said board shall be filled in conformity with the ordinance regulating special elections. Said board of school directors shall have exclusive control of the public schools of the city of Dallas, and shall have full and ample power to provide necessary school buildings and facilities, and to open and conduct a sufficient number of schools to meet the wants of the scholastic population of the city of Dallas, so far as they can do so by prudent and judicious application of the means made subject to their administration and management. Among the powers hereby conferred on said board of school directors the following are for greater certainty enumerated: To contract for, lease and purchase lots, and to construct buildings for school purposes, and to make all needed repairs and alterations in the same; to furnish said school buildings with all appropriate furniture, fixtures and apparatus; to lay off the city in such school districts as in the judgment of said board shall be proper; to increase or diminish said districts, and to change the boundaries thereof at pleasure; to employ superintendents, teachers, and such other persons as may be necessary and to fix their compensation and prescribe their duties, and establish all regulations and rules deemed necessary by the

board to provide and maintain an efficient system of public schools in the city of Dallas. Said board of school directors shall annually, at such time as may be fixed by the city council, file with the mayor and city council of an official statement of the amount of money, or as nearly as can be estimated by said board, which will be needed to pay the cost of maintaining the public schools for the next succeeding scholastic year, exclusive of money, if any, derivable from the State or any other source: Provided, the amount required by said board shall not in any one year exceed one-fourth of one per cent of the taxable values of the city of Dallas. When said statement shall be filed by said board the city council shall, in such sums and at such times as the school board may determine are necessary to meet the requirements of said board for defraying the expenses incurred, appropriate out of the funds of the city, as far as collected, the amount required by said board for school purposes, which said sums, together with all sums received from the State, county, and other school funds, shall be held in the city treasury, subject to the order and disbursement of the school board, and shall be paid out upon warrants issued by order of the school board, and signed by the president, attested by the secretary and countersigned by the mayor. The mayor and city council shall have the right at any time to demand of said school board an account of all sums received, disbursed and expended by them for school purposes, accompanied by vouchers, data and information deemed necessary to enable the city council to ascertain the cost, necessities and expense of said public schools.

Sec. 2. The near approach of the city election of the city of Dallas and the necessity of amending the present municipal law of said city, creates a public necessity and an emergency exists that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 27th day of April, A. D. 1895, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

SHERMAN CITY CHARTER.

CHAP. 6.—[S. B. No. 275.] An act to incorporate the city of Sherman, in Grayson county, Texas, and to fix the boundaries thereof, and to provide for its government and the management of its affairs.

Section 1. Be it enacted by the Legislature of the State of Texas: That all the inhabitants of the city of Sherman shall continue to be a body politic and corporate with perpetual succession, by the name and style of the city of Sherman, and as such they and their successors by that name shall have, exercise and enjoy all the rights, immunities, powers, privileges and franchises now possessed and enjoyed by said city and herein

granted and conferred, and shall be subject to all the duties and obligations now pertaining to or incumbent on said city as a corporation, and may ordain and establish such acts, laws, regulations and ordinances, not inconsistent with the laws and Constitution of this State, as shall be needful for the government, interest, welfare and good order of said body politic, and under the same name shall be known in law, and be capable of contracting and being contracted with, suing and being sued, impleading and being impleaded to, answering and being answered unto in all courts and places and in all matters whatever; may take, hold and purchase, lease, grant and convey such personal property or real estate as the purposes of the corporation may require, within and without the limits thereof, and may make and have and use a corporate seal, and change and renew the same at pleasure.

Sec. 2. That the city limits of the said city of Sherman shall hereafter be and remain the same as exist at the time of the enactment of this law, and described in the following boundary lines: Beginning at a point 1760 yards due south of the center of the court house square; thence due east 1760 yards; thence due north 3520 yards; thence due west 3520 yards; thence due south 3520 yards; thence due east 1760 yards to the place of beginning.

Sec. 3. The wards of said city and their boundaries shall be and remain the same as exist at the time of the enactment of this law: Provided, that the city council shall by a vote of the majority of all the aldermen elected have the power from time to time to divide the said city into as many wards as they may deem expedient, either enlarging or reducing the number of wards, and may prescribe and change the boundaries thereof; and to this end the city council, where it becomes necessary, shall have the power by a vote of two-thirds of all aldermen elected to vacate the office of any alderman of said city by ordinance duly passed by said council, but no such division or change shall be made unless it be done at least six months preceding the general city election next ensuing, at which election the aldermen to be elected under such division or change shall be elected, and such wards so established shall contain as far as practicable an equal number of voters.

Article II.—Officers and Their Elections.

Sec. 4. The municipal government of said city shall consist of the city council, composed of the mayor and ten aldermen, the aldermen to represent the city at large or apportioned to wards as the city council may ordain. A majority of the aldermen shall constitute a quorum of the council for the transaction of business, except at call meetings, or meetings for the imposition of taxes, when two-thirds of the aldermen shall be required. A two-thirds vote of all the aldermen elected shall be required in the levy of all taxes and issuance of bonds in said city.

Sec. 5. The other officers of said corporation shall be a treasurer, an assessor and collector, a secretary, a city attorney, a chief of police, and such other officers and agents as the city may from time to time establish.

Sec. 6. The mayor, aldermen, and all the officers named in the last preceding section shall be elected by the qualified voters of said city, as hereinafter provided, and shall hold their respective offices **for two** years, and until the election and qualification of their successors.

Sec. 7. An annual election shall be held in each of the wards of said city on the first Tuesday in April, A. D. 1896, and annually thereafter at such places as the city council may designate.

Sec. 8. Said election shall be ordered by the city council, and when same shall be so ordered the council shall cause to be given twenty days notice thereof in one or more newspapers published in said city, which notice shall state the officer or officers to be elected, the place where said election will be held, and the names of the various presiding officers of election. Should the council for any reason fail to order an election or give notice thereof, the mayor shall make such order or give such notice.

Sec. 9. At the first regular meeting in May each year, or earlier, the council shall designate some suitable place in each ward at which during the ensuing year all elections shall be held; and if the council shall neglect or refuse to designate such places, or any of them, or if from any cause the places so designated, or any of them, can not be procured for the purposes herein before specified, then the mayor may at any time before the next ensuing election designate such places and shall at the same time appoint some suitable person in each ward to serve as presiding officer of election in said wards: Provided, that no person shall be appointed presiding officer who is not a qualified voter of the ward for which he is appointed. As soon as practicable after the appointment of presiding officers the city secretary shall notify each person so appointed of the fact. In case a person appointed presiding officer of elections fails to attend on the day of election, or fails or refuses to act, or in case no presiding officer has been appointed, it shall be lawful for the voters of the ward present on that day to select from among their number a presiding officer to act as such at the election, and the person so elected shall have the same power and authority as if he had been appointed by the council; but in this case the managers of the election shall in their returns certify that the presiding officer was appointed from and by the voters at the ward voting place on the day of such election because there was no regular presiding officer in attendance, or because the regular presiding officer failed or refused to act, as the case may be.

Sec. 10. The presiding officer of each ward shall on or before the day of election select from among the qualified voters of the ward three judges and four clerks, such selection to be made from different political parties if demanded, as nearly equal as practicable, and there be present a sufficient number of the party making the demand who are willing and competent to serve in said positions; and said judges and clerks, together with the presiding officer shall be the managers of the election. Managers of election shall receive for each day of twelve hours, or fraction thereof, while engaged in their official duties, such compensation as the city council shall fix.

Sec. 11. On the first Tuesday in April, 1896, at the first annual election under this law, there shall be elected by the qualified voters of said city a treasurer, an assessor and collector, a secretary, a chief of police, and city attorney, each of whom shall hold his office for two years, and until his successor is elected and qualified; and at said first election there shall be elected by the qualified voters of said city one alderman for each ward, who shall hold his office for two years, and until his successor is elected and qualified; and at each annual election thereafter until the wards of said city are by the council changed, and the aldermen appor-

tioned among the wards, or elected at large, as the council may provide, there shall be elected by the qualified voters of said city one alderman from each ward, who shall hold his office for two years, and until his successor is elected and qualified. The aldermen to be chosen at said first election shall be to fill the places of those whose successors under the existing order of things are to be chosen, and those officers to be subsequently elected shall be to fill the places as they would have to be filled had not this law passed.

Sec. 12. At all elections held under this law the ballots of each ward shall be taken separately, the polls to be opened for one day only, from eight o'clock a. m. till six o'clock p. m.. Should the polls not be opened promptly at eight o'clock the time shall be extended beyond the hour of six, so as to secure the full period of nine hours for voting purposes, and one hour for noon recess. The managers of the election shall count and cast up the votes for each candidate in accordance with the State laws, and sign and certify to the returns in duplicate, one of which shall be sealed up and retained by the presiding officer for use by the council or by the courts of the country in any legal investigation of the election; the other copy shall be sealed up, with the name of the presiding officer written across the seal, and shall be by one of the managers of the election delivered in open session to the council the next day, or as soon thereafter as practicable. The officer so delivering the same shall make oath before the mayor or one of the aldermen that the returns delivered by him have not been altered or opened since being sealed and signed by him as aforesaid. As received the city council shall immediately open the returns from each ward and estimate the result, causing same to be recorded in tabular form in the minutes of the council. Persons receiving the highest number of votes for the various offices shall be declared elected to the office for which they were respectively voted. The newly elected officers may enter on their duties on the fifth day after election, Sundays excepted: Provided, that any officer elect shall qualify at any time within thirty days, otherwise the office shall be deemed vacant. It shall be the duty of the city secretary to notify all persons elected or appointed to office of their election or appointment, and the city council elect shall convene at the usual place of meeting on the fifth day, Sundays excepted, after their election, or as soon thereafter as practicable, and be installed under the provisions of this law.

Sec. 13. Every person registered as herein after provided and entitled to vote for members of the Legislature of the State, who shall have resided within the limits of the city for six months and in the ward in which he offers to vote for ten days next preceding any city election shall be entitled to vote at such election.

Sec. 14. The managers of elections shall be sworn well and truly to conduct the elections without partiality or prejudice, agreeably to the law and according to the best of their skill and understanding. The oath shall be administered by the presiding officer to the judges and clerks, and one of the judges after being sworn shall administer the same oath to the presiding officer.

Sec. 15. Whenever it happens in any election that there is a tie vote between two or more candidates for the same office, all of whom can not be elected, the council shall declare such election void as between such candidates only, and immediately order a new election for the office, giv-

ing not less than ten days notice thereof. In the event of the failure of the council to meet to examine the election returns and declare the result, the mayor shall discharge that duty.

Sec. 16. No person shall be eligible to any office of said city, whether elected by the voters or the council, unless he possesses the qualifications of an elector; shall have paid all taxes due and otherwise free of debt to said city, and shall have resided in the limits of the city for twelve months next preceding the election at which he is a candidate; and no person shall be eligible to the office of alderman unless in addition to the above prescribed qualifications he shall be a resident of the ward in which he is a candidate, and a removal from said ward during the term for which he is elected shall vacate his office.

Sec. 17. In case of vacancy in the office of mayor or alderman, or refusal to accept, or failure to qualify, or by death, resignation or otherwise, the city council shall order a new election to fill such vacancy, a majority of the council being necessary for the purpose.

Sec. 18. The manner of holding and voting at elections to be held under this act, and the powers and duties of the managers thereof, and the counting of votes, shall be according to the general laws of the State in force at the time, as far as applicable, and not in conflict with this act, and after registration, as provided for, such cities in chapter 8, article 1759a, Revised Statutes of the State of Texas, act April 12, July 12, 1892, Twenty-second Legislature, SS., page 13, which said act is here referred to and made a part of this charter: Provided, that the city council shall have full power and authority to pass such laws not inconsistent with the Constitution and laws of this State as it shall deem expedient in respect to conducting elections and voting thereat, as well as to making returns thereof, and prescribing the mode and manner of determining contested elections and to protect the purity of the ballot.

Article III.—Duties and Powers of Officers.

Sec. 19. Every person elected by the voters of said city, or by the city council to fill any office under this act, shall, before entering on the duties of his office, take and subscribe the official oath prescribed by the Constitution of the State, and the city council by ordinance may require such additional oath as they may deem proper.

Sec. 20. The mayor of the city shall be the chief executive officer of the corporation, and shall be and act as city judge, and while so acting shall have such power and authority as is herein given said city judge, and preside in the city court until the election of city judge, and shall be vigilant and active at all times, causing the laws and ordinances of said city to be executed and put in force. He shall inspect the conduct of all subordinate officers in the government thereof, and, as far as it may be in his power, shall cause all negligence, carelessness, positive violation of duty to be prosecuted and punished, and if in his discretion considered necessary to suspend the official until the next meeting of the city council. He shall have power, when in his judgment the good of the city may require it, to summon meetings of the city council, and he shall from time to time communicate to that body all such information, and recommend all such measures as may tend to the improvements of

the finances, the police, the health, security, cleanliness, comfort, ornament and good government of said city.

Sec. 21. Whenever the mayor shall deem it necessary in order to enforce the laws of the city, or to avoid danger, or protect life and property in case of riot or any outbreak, or any public calamity or disturbance, or when he has reason to believe any serious violation of law and order, or any outbreak, or any other danger to the said city or the inhabitants thereof, he shall summon into service as a **special police force** all or as many of the citizens as in his discretion may be necessary and proper; and such summons may be by proclamation or order addressed to the citizens generally, or those of any ward or subdivision thereof; or summons may be by personal notification. Such special police force, while in service, shall be subject to the orders of the mayor, shall perform such duties as he may require, and shall have the same powers and duty as the regular police force of the city; and any person so summoned and failure to obey, or appearing and failing to perform any duty that may be required by this act, shall be fined in any sum not exceeding one hundred dollars.

Sec. 22. The mayor shall have like power with a justice of the peace to administer oaths of office. He shall have authority in case of a riot or any unlawful assembly, or with a view to preserve the peace and good order of said city, to order and enforce the closing of any theater, ball room, grog shop, tippling house, bar room, or other place of resort, or public room or building, and may order the arrest of any person violating in his presence the laws of the State or any ordinance of the city; and he shall perform such other duties and possess and exercise such other powers as may be prescribed and conferred by the city council.

Sec. 23. All ordinances, motions, resolutions, orders and contracts adopted by the city council shall, before they take effect, be placed in the office of the city secretary, and if the mayor approves thereof, he shall sign the same, and such as he shall not sign he shall return to the city council with his objections thereto. Upon the return of any ordinance, resolution, motion, order or contract by the mayor, the vote by which the same was passed shall be reconsidered; and if, after consideration, two-thirds of the whole number of aldermen present agree to pass same, and enter their votes on the journal of the proceedings, it shall be in force from that time, or after publication, or time expressed for taking effect, as the case may be; and if the mayor shall neglect to approve or object to any proceedings for a longer period than three days after the same shall be placed in the secretary's office aforesaid, the same shall go into effect from that time, or after publication, or time expressed for taking effect, as the case may be.

Sec. 24. The mayor of said city, as long as he shall act as city judge, shall receive a salary, payable in monthly installments, not exceeding the sum of two thousand dollars; and when he shall cease to act as such city judge, not exceeding \$1200 per annum, to be fixed by the city council, as hereinafter provided.

Sec. 25. The judicial power of the city of Sherman shall be and the same is hereby vested in a court to be known as Sherman City Court, to be presided over by the mayor, or, when provided for by the city council and elected, a judge to be known as city judge, which court is hereby created and established with a criminal jurisdiction as follows:

First. To try and punish all misdemeanors over which the city court of Sherman has jurisdiction.

Second. To try, determine and punish all misdemeanors arising under the provisions of this charter; to have concurrent jurisdiction with the county court of Grayson county over all misdemeanors against the laws of the State committed within the city limits, except theft, swindling, aggravated assault, aggravated assault and battery, and matters involving official misconduct.

Sec. 26. Said court shall always be deemed open for trial of said causes, and proceedings before said court shall be commenced by filing a writ of complaint, specifying the charge made against the accused with reasonable certainty, which complaint shall be sworn to and shall not be quashed for any formal defects if it substantially sets forth the nature of the violation alleged; said court shall have no civil jurisdiction, except the forfeiture and collection of bonds in said court.

Sec. 27. All process of said court shall run in the name and by the authority of the city of Sherman, and shall conclude against the peace and dignity of the city, county and State, and shall be served and executed in the same manner as like process issued from the State court, unless herein otherwise provided. The practice and procedure of the State courts, so far as applicable and practicable, shall govern in said city court, unless otherwise provided herein, or by ordinance of the city council. The style of the process shall be "The City of Sherman."

Sec. 28. Whenever the city council shall provide for and make the office of city judge, the same shall be filled by some suitable person to be elected by the city council, as hereinbefore provided. Such officer when elected shall be known as city judge, and shall preside over and hold said court, and shall discharge all the duties thereof; he shall hold his office for a term of two years and until his successor is elected and qualified. He shall be a resident of said city, a qualified voter therein, and shall be a person learned in and licensed to practice the law.

Sec. 29. The city judge shall have full power and authority to enforce all process of said city court. He shall have full power to issue subpoenas for witnesses and compel their attendance by process of attachment. He shall have such authority as county judges have to punish all contempts of his court by fine or imprisonment, or either. He may issue subpoenas, writs or capias, warrants of arrest, search warrants, executions and all other process known to the law which State courts in such case may issue. He may require of any person arrested a bond for his or her good behavior, and to keep the peace, or for his or her appearance before said court, with two good and sufficient sureties, which bond, as well as any other bond taken in any proceedings in said court, shall be payable to the city of Sherman. He shall have full power to administer official oaths and affirmations and give certificates therefor. The city council may determine what costs, if any, shall be charged for proceedings in and for all process issued by said court. The city judge shall perform all the duties herein required, and such other duties as may be prescribed by ordinance not inconsistent with the Constitution and laws of this State. All fines and costs imposed by said city court shall be paid into the city treasury for the use of the city. The city council may, if they deem it necessary, provide said court with a clerk and seal. In case of temporary failure to act for any cause on the part of the city

judge, the mayor is hereby authorized to appoint some person qualified, who shall discharge the duties of said office and receive the pro rata compensation therefor.

Sec. 30. The city judge shall receive a salary of not exceeding eight hundred dollars per year, to be fixed by the city council, as hereinafter provided for, payable in monthly installments.

Sec. 31. All jurors in said court shall be residents of said city, and otherwise possessed of qualifications as jurors in the State courts. They shall be summoned and solicited in such manner as the city council may provide by ordinance.

Sec. 32. No appeal shall be from this court unless the fine is twenty dollars or more, and then only to the Court of Criminal Appeals. Said appeals shall be governed by the rules and procedure for appeals from the county court to said Court of Criminal Appeals, so far as the same may be practicable.

Sec. 33. The chief of police shall either in person or by deputy attend upon the city court while in session, and upon meetings of the city council, and shall promptly and faithfully execute all writs and process issued from said courts. He shall have like power with the sheriff of the county to execute the writ of search warrant. He shall be active in quieting riots, disorders and disturbances of the peace within the limits of the city, and shall take in custody all persons offending against the peace of the city, and shall have authority to take suitable and sufficient bail for the appearance before the city court of any person charged with offense against the ordinances or laws of the city. It shall be his duty to arrest without warrant all violators of the public peace, and all who obstruct or interfere with him in the execution of the duties of his office, or who shall be guilty of any disorderly conduct or disturbance whatever in his presence or upon complaint of any citizen. To prevent a breach of the peace or preserve quiet and good order he shall have the authority to close any theater, bar room, drinking house, or any other place or building of public resort, and in the prevention and suppression of crime and arrest of offenders he shall have, possess and exercise like power, authority and jurisdiction of the sheriff of the county, under the laws of the State. He shall receive a salary not to exceed \$1800 per annum, to be fixed by the council, as herein after provided, payable in monthly installments. He shall give a bond payable to the said city, with good security, conditioned for the faithful performance of his duties and in accordance with the charter and ordinances of the city, in such amount as the city council may require, said bond to be approved by the city council; and he shall perform such other duties and possess such other powers, rights and authority as the council by ordinance require and confer.

Sec. 34. It shall be the duty of the city secretary to attend every meeting of the city council and keep accurate minutes of the proceedings thereof in a book provided for that purpose, and to engross and enroll all laws, ordinances and resolutions of the city council; to keep the corporate seal; to take charge of, preserve and keep in order all books, records, papers, documents and files of the city council; to countersign all commissions issued to the city officers and licenses issued by the mayor, and to keep a record or register thereof, and to make out all notices required under any resolution or ordinance of the city. He shall draw all

warrants on the treasurer and countersign the same, and keep an accurate account thereof in books provided for the purpose. He shall be the general accountant of the city, and shall keep in books regular accounts of the receipts and disbursements of the city, and separately, under proper head, each cause of receipt and disbursements; and also accounts with each person, including the officers, who have money transactions with the city, crediting amounts allowed by proper authority, and specifying the particular transactions to which such entries apply. He shall also keep a register of the bonds and bills issued by the city and all evidence of debts due and payable to it, noting the particulars thereof and all facts connected therewith as they may occur. He shall carefully keep all contracts made by the city; shall be clerk of the city court when required by the council, and shall do and perform such other duties as may be required of him by law or ordinance, resolution or order of the city council. He shall receive for his services a salary not exceeding fifteen hundred dollars per annum, payable in monthly installments, and he shall give a bond, with good security, payable to the city, in such amount as the city council may prescribe, and conditioned for the faithful discharge of his duties in accordance with the charter and ordinances of the city, the same to be approved by the city council. He shall have such assistance, to be paid for by the city, as may be needed for the transaction of business relating to his office, the necessity for such assistance to be determined by the council.

Sec. 35. The treasurer of said city shall receive and securely keep all moneys belonging to the city and make all payments of the same upon the order of the mayor, attested by the secretary under the seal of the city: Provided, that no order shall be paid unless it shows on its face that the city council has directed its issuance, and for what purpose. He shall render a full and correct statement of his receipts and payments to the council at their first regular meeting in every quarter, and whenever at all other times he is required by them to do so. At the end of every half year he shall cause to be published, at the expense of the city, a report showing the amount of receipts and expenditures for six months next preceding, and the general condition of the treasury, and he shall do and perform such other acts and duties as the city council may require, and for his services he shall receive such salary as the city council shall fix, as hereinafter provided, not to exceed nine hundred dollars per annum, payable monthly. He shall execute a bond payable to the city, in such amount and in such form as may be required by the council, and with sufficient security, to be approved by the council, and conditioned for the faithful discharge of his duties in accordance with the charter and ordinances of the city. He shall also execute another bond payable to the city in such amount and in such form as may be required by the council, and conditioned for the faithful discharge of his duties by reason all school funds of any source coming into his hands.

Sec. 36. The assessor and collector shall make up the assessment of all property taxed by the city, and make duplicate rolls thereof, and on completion of the rolls he shall deliver one of them to the city secretary. He shall collect all taxes due the city, and in the event of non-payment of any taxes he shall, if required by the council, proceed to sell property to raise the amount of taxes so due, and shall in the performance of his duties observe the provisions of this act and ordinances of the city rela-

ting thereto. He shall give bond, payable to said city, in such amount and in such form as the council may require, with good and sufficient sureties, conditioned for the faithful performance of his duties in accordance with the charter and ordinances of the city, the same to be approved by the council. The council may require of him a new bond whenever they deem the existing bond for any reason insufficient, and whenever such bond shall be required he shall perform no official act until the same is given and approved. He shall, at the expiration of every week, pay to the treasurer all moneys collected by him by virtue of his office, and he shall at the first meeting in every month report to the council the money so collected and paid. He shall perform such duties and all in such manner and according to such rules and regulations as the council may prescribe. He is authorized to require the owners of property subject to taxation to render a correct statement thereof, under oath, to be administered by him or one of his deputies. He is empowered to appoint one or more deputies, subject to confirmation by the city council, whose salaries shall be paid by said city. He shall receive a salary of not more than two thousand dollars per annum, to be fixed by the council, as hereinafter provided, payable in monthly installments.

Sec. 37. The city attorney shall represent the city of Sherman in all cases now pending or hereafter brought in any court in favor or against said city. He shall attend all meetings of the city council and give his advice and counsel when called upon to do so. He shall give his opinion upon legal questions concerning the city. He shall aid, when required, in drawing and digesting all ordinances, resolutions, regulations, charters and amended charters, and he shall render such other professional services as the council may require. He shall have the power to administer oaths in any matter pertaining to the duties of his office. He may appoint a deputy, subject to the approval of the city council, to represent him in the city court. He shall receive a salary not to exceed \$1800 per annum, as fixed by the council, payable in monthly installments. The council may, when it deems it necessary, employ counsel to assist the city attorney in any matter or suit affecting the city, and may pay him such compensation as may be agreed upon. The city attorney shall give such bond as the city council may require.

Sec. 38. The city council may from time to time require further duties of all officers whose duties are herein prescribed, and define and prescribe the duties and powers of all officers appointed or elected to any office of the city, and whose duties are not herein specifically mentioned, and fix their compensation when not herein fixed. They may also require bonds to be given to said corporation by all officers for the faithful performance of their duties. The council shall also provide for the filling of vacancies in all offices not herein provided for; and in all cases of vacancies the same shall be filled for the unexpired term only.

Sec. 39. The city council shall on or before the first day of January next preceding each election under this act, fix the salaries of all officers of said city who are to be chosen at said election, and shall at the same time fix the salaries of all the officers who are to be appointed by the next council, and the salaries so fixed shall not be increased or diminished during the term for which said officers shall be elected or appointed.

Article IV.—General Powers and Duties of the City Council.

Sec. 40. The mayor and aldermen shall constitute the city council of said city. The council shall meet at such time and place as they shall by resolution designate. The mayor shall preside over all the meetings of the council, but shall not vote unless there is a tie, when he shall give the casting vote. At the first meeting of each new council, or as soon thereafter as practicable, they shall elect one of their number president pro tem., who shall hold his office for one year. In case of the inability, absence, failure, or refusal of the mayor to discharge any of the duties of his office, the president pro tem. shall perform such duties, and shall, when so acting, receive the compensation of the mayor. If both the mayor and president pro tem. should so fail, refuse to act, or be absent, the council may appoint any one of their members to perform the duties, without compensation.

Sec. 41. The council shall hold stated meetings, and the mayor may of his own motion, or on the application of three or more aldermen, call special meetings by notice to each of the members of the council, secretary and city attorney, served personally or left at their usual place of business or abode. Petitions and remonstrances may be presented to the council in writing only, and the council shall determine the rules of its proceedings and be the judge of the election and qualification of its members, and have the power to compel the attendance of absent members, and punish any member for disorderly conduct. In case when requested by three or more aldermen, the mayor shall fail or refuse to call a meeting of the council, then a majority of the aldermen shall have the right to call the meeting, in which event they shall give like notice as the mayor is required to give, and shall also notify the mayor.

Sec. 42. The city council shall have the management and control of the finances and other property, real and personal, belonging to the city.

Sec. 43. The city council shall have the power to appropriate money and provide for the payment of the debts and expenses of the city.

Sec. 44. To provide by ordinance special funds for special purposes, and make the same disbursable only for the purpose for which the fund was created, and any officer of the city misappropriating said special fund shall be deemed guilty of malfeasance in office, and shall, on complaint of any one interested in said fund so misappropriated, be removed from office by the council, and be incapable thereafter to hold any office for said city.

Sec. 45. To make regulations to prevent the introduction of contagious diseases into the city; to make quarantine laws for that purpose, and to enforce them within the city and within five miles thereof.

Sec. 46. To provide, or cause to be provided, the city with water; to make, regulate and establish public wells, pumps, cisterns, hydrants and reservoirs, and water works of any and every kind whatever, and to have full control thereof, and in furtherance of these objects the city council may by ordinance establish a water works department, and appoint such officers, agents and directors for the operation thereof as it may deem necessary, and may clothe them with such authority as may be necessary.

Sec. 47. To have the exclusive control and power over streets, alleys.

public grounds, and highways within the city, and to summarily abate and remove encroachments or obstructions thereof; to open, vacate, alter, widen, extend, establish, regulate, grade, clean or otherwise improve such streets, alleys, highways, and public grounds; to put drains or sewerage, and public wells therein, and to prevent the encumbering thereof in any manner, and to protect same from encroachment or injury, and to regulate and alter the grade of premises, and to require the filling up and raising the same; and said city council shall also have the power to alter or vacate the alley in any block of ground within the city, upon the written application of the owners of the block. Then, upon the written application of all the owners thereof uniting in such application, such alley so vacated shall thereupon revert to and become the property of the owner of the block of which it was a part, or if more than one, then the owners of the adjoining lots therein, each extending to the center of the alley so vacated.

Sec. 48. To establish, erect, construct, regulate and keep in repair bridges, culverts and sewers, sidewalks, curbings and crossings, and to regulate the construction and use of the same, and to abate and punish any obstruction or encroachments thereon; and the cost of construction and repairing sidewalks and curbing shall be defrayed by the owner of the lot or part of lot or block fronting on the sidewalk or curbings, and the cost of any sidewalk or curbings constructed by the city shall be a lien on such property fronting thereon and may be collected, if necessary, by the sale of the lot or part of lots or block on which it fronts, together with the cost of collection, in such a manner as the city council may by ordinance provide; and the sale of any lot or part of lot or block to enforce the collection of cost of sidewalk shall convey a good title to the purchaser, and the balance of the proceeds of sale after paying the amount due the city and the cost of sale shall be paid by the city to the owners; and the city council may pass any ordinance deemed necessary in furtherance of the provisions of this section.

Sec. 49. To provide for an electric light plant for lighting the streets, and erecting lamp posts and lamps therein and regulating the lighting thereof, and from time to time create, alter or extend lamp districts; to exclusively regulate, direct and control the laying and repairing of gas pipes and fixtures, and the establishment and maintenance of other lights in the streets, alleys, sidewalks and elsewhere.

Sec. 50. To establish or erect or cause to be established or erected markets and market houses; designate, control and regulate market places and privileges; inspect and determine the mode of inspecting meat, fish, vegetables and all produce and every article and thing therein brought for sale.

Sec. 51. To provide for the enclosing, regulating and improving all public grounds and cemeteries belonging to the city, and to direct and regulate the planting and preserving of ornaments and shade trees in the streets, sidewalks and public grounds.

Sec. 52. To erect or establish one or more hospitals, and to control and regulate the same, and to prohibit and permit the establishment of private hospitals.

Sec. 53. To prevent the encumbering of streets, alleys, and sidewalks and public grounds with carriages, wagons, carts, hacks, buggies or any vehicle whatsoever, boxes, lumber, timber, firewood, posts, awning,

signs or any other substance or material whatever or in any other manner whatever; to compel all persons to keep all weeds, filth, and any kind of rubbish from the sidewalks and streets and alleys alongside and gutters in front of the premises occupied by them, and to require and compel the owners of the property to fill up, grade, gravel, pave and otherwise improve the sidewalks and alleys in front of and adjoining their property; also to inspect the construction of buildings, and to cause unsafe buildings to be made safe or to be removed, and to prohibit the use of material deemed unsafe.

Sec. 54. To license, tax and regulate hackmen, draymen, omnibus drivers, baggage wagon drivers, and drivers of vehicles of every kind, and all others pursuing like occupations with or without vehicles, and prescribe their compensation, and make it a misdemeanor for any person to attempt to defraud them of any legal charge for services rendered; and to regulate stands for vehicles; and to regulate, license and restrain runners for railroads, vehicles of any kind, hotels, public houses of any kind or other business of any kind.

Sec. 55. The city council shall have power to provide for sprinkling any and all streets of the city, and the further power to assess a special tax on the property fronting on said streets to cover the entire expense of such sprinkling: Provided, that no such tax shall be assessed unless by a two-thirds vote of the entire city council: Provided, further, that the assessment and collection of such special tax shall be regulated as far as practicable by the rules in relation to street improvements, as provided elsewhere in this charter.

Sec. 56. To establish a free library and to adopt rules and regulations for the proper management thereof, and to appropriate such parts of the revenues of the city for the management and increase of such public library as the city council shall determine.

Sec. 57. To restrain, regulate and prohibit the selling or giving away indirectly, to evade a tax or penalty, intoxicating or malt liquors by any person within the city, except by persons duly licensed; to forbid and punish the selling or giving away any intoxicating or malt liquors to any minor, apprentice or habitual drunkard.

Sec. 58. The city council shall have power to prohibit the location of any public place of amusement or resort calculated to disturb or annoy, and shall have power to prohibit the sale of any spirituous, vinous or malt liquors within three hundred feet of any public school, school building, academy, college or church, and shall have the power to prohibit the sale of any or all liquors in houses of prostitution, and shall have power to prohibit or regulate the location of saloons in the residence part of the city.

Sec. 59. To close drinking houses, saloons, bar rooms, beer saloons, and all places and establishments where intoxicating or fermented liquors are sold on Sundays; also all places of amusement and business.

Sec. 60. The city council shall have the power to regulate and prevent the sale, bartering or giving away of any intoxicating liquors in any house or place where any theatrical or dramatic representations are given; regulate and prevent the same from being brought in or to such places under any pretext whatever. All rooms or buildings or apartments of any kind inside the rooms where such representations are given, or being a part of it, or joining or connecting therewith by any door or

doors, dumb waiter, or opening of any kind, shall be held to be within the places inhibited by this section.

Sec. 61. To license, tax and make such rules and regulations in relation to butchers as they may deem necessary and proper.

Sec. 62. To regulate the inspection of beef, pork, flour, meat, salt, milk, oleomargarine and other provisions, whiskey and other liquors to be sold in barrels, hogshead or other vessels and packages; to appoint weighers, gaugers and inspectors, and prescribe their duties and regulate their compensation.

Sec. 63. To regulate the weight and quality of bread to be sold or used within the city.

Sec. 64. To create, establish and regulate the police of the city: to appoint policemen and to prescribe their duties, and powers, and compensation.

Sec. 65. To prevent and suppress any riot, affray, noise, disturbance or disorderly assembly in any public or private place within the city.

Sec. 66. To prevent, prohibit and suppress horse racing, immoderate riding and driving in the streets: to prohibit and punish the abuse of animals; to compel persons to fasten their horses and other animals attached to vehicles or otherwise while standing or remaining in the streets.

Sec. 67. To regulate, restrain and punish vagrants, mendicants, street beggars and prostitutes.

Sec. 68. To establish and regulate public pounds, and to regulate, restrain and prohibit the running at large of horses, mules, cattle, sheep, swine, goats and all other animals, and to authorize the distraining, impounding and sale of same for the cost of proceeding and penalty incurred, and to order their destruction when they can not be sold, and to impose penalties on the owners thereof for a violation of any ordinance relating hereto.

Sec. 69. To tax, regulate or restrain and prohibit the running at large of dogs, and to authorize their destruction when at large contrary to ordinances, and to impose penalties on the owners or keepers thereof for the violation of such ordinances.

Sec. 70. To prohibit and restrain the firing of fire crackers, guns and pistols, use of velocipedes or the use of pyrotechnics or other amusement or practice tending to annoy persons passing in the streets or sidewalks, or to frighten horses or teams; to restrain and prohibit the ringing of bells, blowing of horns and bugles, crying off goods and all other noises, practices and performances tending to the collection of persons on the streets and sidewalks by auctioneers and others for the purpose of business or amusement, or otherwise.

Sec. 71. To abate all nuisances which may injure or affect the public health or comfort, in any manner they may deem expedient.

Sec. 72. To do all the acts and make all the regulations which may be necessary or expedient to the promotion of health or to the suppression of disease.

Sec. 73. The city council may co-operate with the commissioners court in making such improvements connected with the city and county as may be deemed by the city council and commissioners court necessary; to make bridges, improve the public health and promote efficient sanitary

regulations, and by mutual arrangements they may provide for the construction of said improvements and the payment thereof.

Sec. 74. To compel the owner or occupant of any grocery, soap, tallow or chandler establishment or blacksmith shop, tannery, stable, slaughter house, distillery, brewery, sewers, privy, hide house or any unwholesome or nauseous house or place, to cleanse, remove or abate the same, as may be necessary for the health, comfort and convenience of the inhabitants.

Sec. 75. To direct the location of business, laundries, tanneries, blacksmith shops, founderies, livery stables and any manufacturing establishment; direct the location and direct the management and construction of, restrain, abate and prohibit within city limits, slaughtering, establishments for keeping and curing hides, establishments for making soap, for steaming or rendering lard, tallow, offal and such substances as may be rendered, and all other establishments or places wherein nauseous, offensive or unwholesome business may be carried on.

Sec. 76. To regulate the burial of the dead; to purchase, establish and regulate one or more cemeteries; to regulate the registration of deaths, marriages and births; to direct the running and keeping of bills of mortality.

Sec. 77. To abate and remove nuisances and to punish the author thereof by penalties and fines, and to define and declare what shall be nuisances, and to authorize and direct the summary abatement thereof.

Sec. 78. To erect or establish one or more workhouses or houses of correction, within or without the city limits, make all necessary rules and regulations thereof, and appoint all necessary keepers or assistants. In such workhouse or house of correction may be confined all vagrants, stragglers, idlers, suspicious and disorderly persons who may be committed by the city; and any person who shall refuse or fail to pay the fine, penalty or cost imposed for any misdemeanor or breach of any ordinance of the city may, instead of being committed to jail, be kept therein, subject to labor and confinement.

Sec. 79. To compel and enforce all offenders against any ordinance of the city, found guilty by the city judge, and sentenced to fine, who shall fail or refuse to pay such fine, and all costs and penalties, to labor on the streets or alleys of the city or on any public works, under such rules and regulations as may be by ordinance established.

Sec. 80. To prevent all trespassers, breaches of the peace in good order, assaults and batteries, fighting, quarreling, using abusive, obscene, profane and insulting language, misdemeanors, and all disorderly misconduct, and punish all persons thus offending.

Sec. 81. To prevent and punish the keeping of houses wherein indecent, lewd or immodest theatrical representations are given; houses of prostitution within the city; and to adopt summary measures for the removal or suppression of all such establishments.

Sec. 82. To require the owner of private drains, sinks and privies to fill up, cleanse, drain, lay, relay, repair, fix and improve the same, as may be ordered by any resolution or ordinance of said city; and in the event of any failure, neglect or refusal to comply with any of such orders, the party so failing shall be liable to fine. In the event of there being no person in the city on whom such order can be served, the city may have such work done and such improvements made on account of the owner

thereof; and all costs, charges and expenses shall be a lien on the property on the filing of a memorandum by the mayor under the corporate seal of the city and recording the same with the clerk of the county court: and the city may enforce said lien and institute suit in the corporate name, and obtain judgment against the said party for the amount so due, as aforesaid, in any court having jurisdiction.

Sec. 83. To require the owner of any private premises in the said city to cut and remove all weeds from such premises.

Sec. 84. To direct and control the laying and construction of railroad tracks, turnouts and switches, or prohibit the same in the streets, avenues and alleys, unless the same shall be authorized by law, and cause the same to be built, repaired or changed in such manner as may be deemed fit for the safety and convenience of the public; to require railroad tracks, turnouts and switches to be so constructed as to interfere as little as possible with the public travel and use of streets, avenues and alleys, and that sufficient space be left on either side of said tracks for safe and convenient passage of teams, carriages and other vehicles, and persons: to require railroad companies to keep in repair the streets, avenues and alleys through which their tracks may run; and if ordered by the city council to construct and keep in repair suitable crossings and lights at the intersection of streets, avenues, alleys, ditches, sewers and culverts, when the city council shall deem it necessary; and to regulate and prohibit the blowing of whistles in the city, and to regulate the speed of locomotives, engines, cars and trains in said city: Provided, that the provisions of this article shall apply to steam railroads, and not to city street or horse railways.

Sec. 85. The city council shall have power to compel horse railroads or other city street railroad companies to keep their roads in repair; to pave and improve the same and make them conform to the grades of the streets upon which their track may be laid, whenever said streets shall have been graded by the city, and to restrain the rate of speed so as not to exceed seven miles per hour; and to compel said city railroads to supply ample accommodations for the safe and convenient travel of the people on the streets where their tracks may run, and to compel said city railroads to furnish safe, comfortable and convenient cars for transportation of passengers; to declare their franchises forfeited upon the non-compliance of said company with the ordinances of the city or with the conditions or agreements under which said franchises were granted, and forthwith remove or cause to be removed their tracks from any of the streets of the city; to compel street railway companies to permit other companies to use their tracks for the purchase of traffic thereon for a distance not exceeding three hundred and sixty feet, when, in the discretion of the city council, it may be deemed necessary for the use and convenience of the city and the traveling public.

Sec. 86. The city council shall have exclusive control and regulation of all streets, alleys and public grounds, and power to remove or abate encroachments in a summary manner; to permit, prevent and regulate the laying of gas and water mains, and the erection of telegraph, telephone and electric light and other poles; to impose such terms as they may deem proper for the use of the streets and sidewalks.

Sec. 87. To prevent any person from bringing, depositing or having within the limits of said city any dead carcasses, or any other unwhole-

some substances or matter, and to require the removal or destruction by any person who shall have placed or caused to be placed upon his premises or elsewhere of any substance or matter, filth, or any putrid and unwholesome beef, pork or fish, hides or skins of any kind, and, on his default, to authorize the removal or destruction thereof by some officer of the city, and require the owner of any dead thing or animal to remove the same to such place as may be designated.

Sec. 88. To prevent, regulate and control the driving of cattle, horses and all other animals into and through the city.

Sec. 89. The city council shall have the power to pass, publish, amend or repeal all ordinances, rules and police regulations **not** contrary to the Constitution of this State, for the good government and peace and order of the city and the trade and commerce thereof, and that may be necessary or proper to carry into effect the powers vested by this charter in the corporation, the city government or any department or officer thereof: to enforce the observance of all rules, ordinances and police regulations and to punish the violation thereof by fine, penalties and costs, but no fine or penalty shall exceed five hundred dollars; and for any fine, penalty and cost imposed by the city judge in the trial of any cause or complaint before him execution may issue to collect such fine, penalty and cost, to be levied and executed in the same manner that executions are from the district or county court. The same shall be issued by the city judge to the chief of police, who, in levying on the property and selling, shall have like power and authority as the sheriff in executions issued from the district or county courts, and the laws of the State, so far as practicable, shall apply to and be in full force and effect as to the executions issued from the city court; and any person upon whom any fine or penalty is imposed may be committed until the payment of the same, with cost, and in default thereof may be imprisoned in the city prison or workhouse or house of correction, or may be required to work on the streets or other public works of the city for such time and in such manner as may be provided by ordinance or by law.

Sec. 90. The city council shall have power to provide by ordinance for the punishment of all persons convicted of the violation of ordinances or State law before the city judge, of a trial fee not exceeding ten dollars, in addition to or exclusive of the cost above allowed, to be fixed by the council, in proceedings before the city judge, the same to be paid into the city treasury for the use and benefit of the city.

Sec. 91. To appropriate so much of the revenue of the city, emanating from whatever source, for the purpose of retiring and discharging bonded indebtedness of the city, and for the purpose of improving the public markets and streets; erecting, repairing, additions to and conducting the city hospitals, city halls, school houses, water works, electric lights, sewers and all other public improvements, as they may from time to time deem expedient; and in furtherance of these purposes they shall have the power to borrow money upon the credit of the city and issue coupon bonds of the city therefor in such sum or sums as they may deem expedient, to bear interest not exceeding six per cent per annum, payable annually or semi-annually at such place as may be fixed by ordinance: Provided, that the aggregate amount of bonds issued or to be issued by the city council, not to include but exclusive of bonds in aid and to pay off bonds in aid of Texas and Pacific and Houston and Texas Central

Railway Companies, shall at no time exceed four per cent of the value of the property within said city subject to ad valorem tax.

Sec. 92. The city may by not less than a two-thirds vote of all aldermen elected, authorize the issuance of the city's negotiable promissory notes for any of the purposes mentioned in the foregoing section 91, where the same may be needed for current expenses, in any sum or sums the city council may direct, not to exceed \$10,000, to be signed by the mayor and city secretary and attested by the city seal; bearing interest at any rate not to exceed six per cent per annum, payable at any time not to exceed three years from and after their date; but the amount of such notes so issued and outstanding shall not at any time exceed the amount of \$10,000, and to be paid out of the funds collected for the purpose for which it was used, and shall not be negotiated at less than par value. The city council shall have power to issue bonds to the amount of \$40,000 for the purpose of paying off and retiring such outstanding indebtedness against the city as is now evidenced by an issue of funding warrants of date May 1, 1890, due May 1, 1895, amounting to \$20,661, and all other warrants given by said city in payment of expenses incurred heretofore by reason of the city's current expenses and the erection of public free schools.

Sec. 93. The city council shall have the power at any time to issue bonds for the purpose of paying off and retiring outstanding bonds against the city; and such bonds issued for this purpose shall not be then, while both issues are outstanding, construed or considered in determining whether the amount of bonds then issued by the city is in excess of the limit of 4 per cent of the value of the property within the city subject to ad valorem tax, as provided for by section 91 of this charter. Such bonds shall state upon their face the purpose for which they are issued, and the money realized from their sale shall be used for the purpose of paying off and retiring other bonds of the city.

Sec. 94. All bonds shall specify for what purpose they are issued, and shall not be sold for less than their par value; and when any bonds are issued by the city a fund shall be provided to pay the interest and create a sinking fund to redeem the bonds or to pay interest and principal as the same matures, which fund shall not be diverted nor drawn upon for any other purpose, and the city treasurer shall honor no draft on said fund, except to pay interest upon or redeem said bonds for which it was provided. The city council shall have the power to invest its sinking fund in United States bonds, Texas State or county bonds or bonds of the city of Sherman.

Sec. 95. Said bonds shall be signed by the mayor and countersigned by the secretary, and payable at such places and at such times as may be fixed by ordinance, in not less than one nor more than forty years.

Sec. 96. The city shall forward all bonds desired to be issued to the Attorney General, under such rules, regulations and restrictions as is provided by State laws. Act April 29, August 8, 1893, Twenty-third Legislature, page 84, which law is here made a part of this charter, except when the same is in conflict with any provision herein.

Article V.—Taxation.

Sec. 97. The city council shall have power within the city to annually levy and collect taxes not exceeding thirty cents on the one hundred dollars assessed value of all real and personal estate and property in the city not exempt from taxation by the Constitution and laws of the State, for general purposes and current expenses.

Sec. 98. The city council shall have power within the city by ordinance to annually levy and collect taxes not exceeding thirty-five cents on the one hundred dollars assessed valuation of all real and personal estate and property in the city not exempt from taxation by the Constitution and laws of the State, for the maintenance and support of its public free schools.

Sec. 99. The city council shall have power within the city by ordinance to annually levy and collect taxes not exceeding twenty cents on the one hundred dollars assessed valuation of all real and personal estate and property in the city not exempt from taxation by the Constitution and laws of the State, for the establishment, maintenance and improvement of its streets, alleys and bridges.

Sec. 100. The city council shall have power within the city by ordinance to annually levy and collect taxes not exceeding sixty-five cents on the one hundred dollars assessed valuation of all real and personal estate and property in the city not exempt from taxation by the Constitution and laws of the State, for the purpose of paying the city's promissory notes, bonded indebtedness and public improvements, and for the purposes set out in section 91, apportioned as the council shall ordain, to include bonds now outstanding and bonds hereafter legally issued for the purposes named in this charter, and as the city council may deem necessary, and for the best interest of said city.

Sec. 101. No taxes for any purpose shall be lawful for any one year which shall exceed one and one-half per cent of the taxable property of said city, inclusive of the tax to pay the bonded indebtedness in aid of the Texas and Pacific and Houston and Texas Central Railway Companies.

Sec. 102. Out of the sixty-five cents above provided for, the city council shall appropriate each year, levy and collect, a sufficient tax to pay off the interest and provide a fund to discharge the above mentioned indebtedness made by said city in aid of said railroad companies before any portion of the said tax is used for any other purpose.

Sec. 103. No debt shall ever be created by the city unless at the same time provision be made to assess and collect annually a sufficient sum to pay the interest thereon and create a sinking fund of at least two per cent.

Sec. 104. The city council shall have the power to levy and collect an annual poll tax not to exceed one dollar of every male inhabitant in said city over twenty-one and under sixty years old, who is a resident at the time of such annual assessment and not exempt by law.

Sec. 105. The city council shall have the right to assess and collect occupation taxes commonly known as licenses, upon all trades, professions, callings, occupations or other business carried on in said city on which a license or occupation tax can legally be levied: Provided, that

the license tax so levied and collected shall not exceed one-half of the license tax levied by the State for the same trades, professions, occupations or other business, unless the city council is especially authorized to tax or license such trades, professions, calling, occupations or other business by this charter: And provided, further, that no person engaged in mechanical and agricultural pursuits shall ever be required by the city to pay an occupation tax. The license shall be collected by the assessor and collector, and shall be paid to that officer by each and every person chargeable therewith before engaging upon any trade, profession, calling, occupation or business; and the city council shall provide suitable penalties for violations or evasion of this section: Provided, that the city may collect such tax by suit in any court having jurisdiction of the amount. Any person pursuing more than one trade, profession, occupation, calling or business shall pay a license on each, and no license shall extend to more than one establishment or include more than one trade, profession, occupation, calling or business.

Sec. 106. The term real estate or property, as used in this act, shall be construed to embrace lots, lands, and all buildings, or machinery of every kind erected upon and affixed to same.

Sec. 107. The term personal estate or property, as used in this act, shall be construed to embrace household furniture, money, goods, capital, chattels, stock and stocks of corporations, money or otherwise, and all credits, bonds and other evidence of debt owned by residents of said city, and evidence of debt owned by non-residents against residents of the city, whether the same be in or out of said city, all money at interest within or without this city due the person to be taxed, over and above what he pays interest for, and all other debts due residents of the city over and above their indebtedness, and other things denominated as personal property under existing or future State tax laws.

Sec. 108. The city council may provide by ordinance, not in conflict with the State Constitution and laws, for the exemption from taxation of such property as they may deem just and proper: Provided, that nothing contained in the article on taxation shall be construed to prevent the city council from imposing, levying and collecting special taxes and assessments for the avenues, streets and alleys of the city as herein-after provided.

Sec. 109. The city council shall have power to provide by ordinance for the assessing and levying of the taxes aforesaid, and to determine when taxes shall be paid by corporations, and when by the individual incorporators: Provided, that no tax shall be levied except by consent of two-thirds of the aldermen elected.

Article VI.—Collection of Taxes.

Sec. 110. The city council shall have the power to provide by ordinance for the prompt collection of taxes assessed, levied and imposed under this act, and due or to become due to said city, and are hereby authorized, and to that end shall have power, to sell, or cause to be sold, real as well as personal property, and shall make all such rules, regulations, and ordain and pass all such ordinances as they may deem necessary for the levying, laying, imposing, assessing and collecting of any of the taxes herein provided for.

Sec. 111. The council shall have power by ordinance to regulate the mode and manner of making out tax lists or inventories of property, and to prescribe the oath that shall be administered to each person rendering property, and prescribe how, when and where property shall be rendered and taxes shall be paid when due, without notice or demand, and to prescribe the number and form of assessment rolls, and fix the duties and define the powers of the assessor and collector, and adopt such measures as they may deem advisable to secure the assessment of all property within the limits of said city, or subject to taxation under the laws of the city, and collect the tax thereupon.

Sec. 112. The general laws of the State of Texas, in force at the time, relating to the assessment and collection of city and town taxes, as provided by chapters 5 and 6, title 17, Revised Statutes of Texas, shall govern in assessment and collection of city taxes of said city as far as applicable, except where otherwise herein prescribed: Provided, that said city shall have the power at any time by ordinance to prescribe full rules and regulations on the subject.

Sec. 113. All such sales for taxes shall be made by the assessor and collector in conformity with the general State law on the subject so far as applicable and not herein otherwise provided, and shall make deed as provided in article 447, chapter 6, title 17, Revised Statutes, and said deed shall have such force and effect: Provided, that the city council shall have full power at any time by ordinance to prescribe full rules and regulations on the subject.

Sec. 114. If at any sale of real estate or personal property for taxes no bid shall be made for any parcel of land or any goods and chattels, for a sufficient amount to pay unsatisfied taxes and costs, the same shall be struck off to the city, and thereupon the assessor and collector shall execute to the city a deed to said property, which shall vest in the city the same title that any other purchaser would acquire by such purchase, and said city shall have power to sell and convey the same and have and give possession.

Sec. 115. The city council shall have power at any time to establish a board of equalization, and define its powers and duties, to equalize as near as may be all property subject to be rendered for taxation: Provided, that until it passes such ordinance an act entitled "An act creating boards of equalization for cities and towns, and defining their duties," passed by the Legislature of Texas, April 4, 1887, shall govern in the equalization of taxes in said city: Provided, that the city council may by ordinance fix an appeal, under such conditions and regulations as they see fit and by ordinance provide.

Sec. 116. The owner of property sold for taxes shall have the right to redeem the same at any time within two years after the day of sale after paying to the purchaser double the amount of both the money paid for the property or land and all taxes subsequently paid by such purchaser, and he shall be entitled to possession.

Article VII.—Public Schools.

Sec. 117. The city of Sherman is constituted and shall continue to be a separate and independent school district, and the city council is vested with exclusive power to maintain, regulate, direct and govern all the

public free schools now established or hereafter to be established within the limits, and it is furthermore authorized to pass such ordinances, rules and regulations, not inconsistent with the Constitution and laws of this State, as may be necessary to govern the same, establish new schools, purchase building sites, construct school houses, and generally to promote free public education within its limits.

Sec. 118. The city council of said city may provide for the election of six or more persons of good moral character, and qualified voters of said city, as a board of trustees of the schools within its limits, of which board the mayor shall be ex officio chairman.

Sec. 119. A school trustee shall serve without compensation, and shall hold office for a term of two years, and until his successor is elected and qualified, and an appointment to fill a vacancy shall be by the city council, and for an unexpired term only.

Sec. 120. Before any trustee enters upon the duties of his office he shall swear that he will faithfully and impartially discharge the duties of his office, and will take any other oath that may be prescribed by the city council, and file such affidavit with the mayor.

Sec. 121. Said board of trustees may adopt such rules, regulations and by-laws for their own government as they may deem proper.

Sec. 122. The public free schools of said city shall be under the control and supervision of such board of trustees, and said board when elected shall have power to control, manage and govern said schools and order the payment of school funds for school purposes.

Sec. 123. Said city shall receive from the State such pro rata of the available school fund as its scholastic population may entitle it to.

Article VIII.—Fire Department.

Sec. 124. The city council, for the purpose of guarding against the calamities of fire, may prohibit the erection, building, placing, removing or repairing of wooden buildings, frame buildings or such buildings covered with iron within such limits within said city as they may designate and prescribe, and may direct, require and prescribe that all buildings within the limits so designated or described as aforesaid shall be made or constructed of fire proof materials, and to prohibit the rebuilding or repairing of wooden buildings within the fire limits when the same shall have been damaged by fire, wind, water, long usage or any other manner whatever to the extent of fifty per cent of the value thereof, and may prescribe the manner of ascertaining such damages; may declare all dilapidated buildings, unsubstantial, dangerous and improperly constructed buildings to be nuisances and direct the same to be repaired, removed or abated in such manner as they shall prescribe and direct, and may prohibit and prevent the erection of such buildings; and may declare all wooden buildings in the fire limits which they deem dangerous to contiguous buildings, or in causing and promoting fire, to be a nuisance, and require and cause the same to be removed in such manner as they shall prescribe.

Sec. 125. The city council shall have power to prohibit and prevent the dangerous condition of chimneys, flues, fire places, stove pipes, ovens or any other apparatus used in or about any building or manufactory, and

cause the same to be removed or placed in a secure and safe condition when considered dangerous.

Sec. 126. To prevent the deposit of ashes in places where they would be liable to produce fire, or in any wooden box or barrel, or within any wooden building, and to appoint one or more officers to enter into all buildings and enclosures to examine and discover whether the same are in a dangerous state, and to cause such as are dangerous to be put in a safe condition.

Sec. 127. To require the inhabitants to keep as many fire buckets, ladders or other means to reach the roof as they shall prescribe, and to provide for fire escapes and regulate the use thereof in time of fire.

Sec. 128. To regulate and prevent the carrying on of manufactories and works dangerous in promoting and causing fires; to prohibit the building and erection of cotton presses and sheds, and the piling and storing of wooden boxes.

Sec. 129. To regulate and prevent or prohibit the use of fireworks and firearms.

Sec. 130. To direct, control or prohibit the keeping or management of houses or any building for the purposes of storing gunpowder or oils or other combustible, explosive, inflammable or dangerous materials within the city, and to regulate the keeping and carrying of the same.

Sec. 131. To compel the owner or occupants of houses or other buildings to have scuttles in the roofs and stairs and ladders leading to the same.

Sec. 132. To authorize the mayor, officers of fire departments or any officer of the city to keep away from the vicinity of any fire all idle, disorderly and suspicious persons, and arrest and imprison the same; and to compel all officers of the city and all other persons to aid in the extinguishment of fires and in the preservation of property exposed to danger thereat, and in preventing goods from being stolen, and generally to establish such regulations for the prevention and extinguishment of fires as the city council may deem expedient.

Sec. 133. The city council shall procure fire engines and other apparatus for the extinguishment of fires, and have control thereof; shall have a fire department, and provide engine houses for keeping and preserving the same; and shall have power to organize fire, hook and ladder, hose and ax companies and fire brigades; and the companies so organized, with such assistant engineers as may be provided for and the chief engineer, shall constitute the fire department of the city. The council shall elect the chief and all paid employees, but each company shall have the right to elect its own members and officers. The city council shall define the duties of said officers, and pass such ordinances as they may deem proper for the interest, government and welfare of said department, and to contribute to the efficiency thereof. All officers so elected and approved shall be commissioned by the mayor, and the said companies, officers and members shall observe and be governed by the ordinances of said city relating to the fire department. Said companies shall have power to adopt their own constitution and by-laws, not inconsistent with the provisions of this charter and the ordinances of the said city; and said department shall take the care and management of the engines and other implements and apparatus provided and used for the extinguishment of fires; and their powers and duties shall be prescribed and

defined by the city council, and said department shall at all times be subject to such regulations as the council may ordain.

Sec. 134. When any building in the city is on fire it shall be lawful for the chief or acting chief engineer, with the concurrence of the mayor, or, in his absence, two aldermen, to direct such building, or any building which they may deem hazardous and likely to take fire and communicate to other buildings, to be torn down, or blown up, or destroyed; and no action shall be maintained against any person or against the city therefor; but any person interested in any buildings so destroyed or injured may, within six months, and not thereafter, apply in writing to the city council to assess and pay the damages he has sustained; and if the city council and the claimant can not agree on the terms of adjustment, then the application of such claimant shall be referred to three commissioners, one to be appointed by the claimant, one by the city council, and the third by both commissioners, and the decision of the majority shall constitute the award in the case. They shall be sworn faithfully to execute their duties according to the best of their ability; shall have the power to subpoena and swear witnesses, and shall give all parties a fair and impartial hearing, and give notice of time and place of meeting. Said commissioners shall be qualified voters and owners of real estate within the city; shall take into account the probabilities whether said building would have been destroyed by fire if it had not been so pulled down or destroyed, and the loss of insurance upon said property, if any, caused by pulling down, blowing up or destroying said building, and may report that no damages should equitably be allowed to such claimant.

Sec. 135. Whenever a report shall be made and finally confirmed for the appraising of said damages, a compliance with the terms thereof by the city council shall be deemed a full satisfaction of said damages.

Article IX.—Sanitary Department.

Sec. 136. The city council may appoint a health physician and as many health inspectors as they may deem necessary, and shall prescribe by ordinance the powers and duties and compensation of the same.

Sec. 137. The city council shall have power to take such measures as they may deem effectual to prevent the entrance of any pestilence, contagious or infectious disease into the city; to stop, detain and examine for that purpose any person coming from any place infected or believed to be infected with that disease; to establish and maintain pest houses within five miles of the city bounds; to cause any person who shall be suspected of being infected with any such disease to be sent to such pest house or hospital; to remove from the city or destroy any furniture, wearing apparel or property of any kind tainted or infected with the pestilence, or which shall be likely to pass into such a state as to generate or propagate disease; to abate all nuisances of every description which are or may become injurious to the public health, or in any manner that they may deem expedient; and from time to time do all acts, make all regulations and pass all ordinances which they shall deem expedient for the preservation of health and suppression of disease in the city; and any claim for damages arising from such destruction of such property shall be submitted to arbitration, as provided in section 134, in reference to the settlement of claims for property destroyed in case of fire.

Sec. 138. The owner, driver or conductor in charge of any stage, railroad car or public conveyance, which shall enter the city having on board any person sick of malignant fever or pestilence, contagious or infectious disease, unless such person became sick on the way and could not be left, shall be guilty of a misdemeanor punishable by fine; and such owner, driver, conductor or person in charge shall within three hours after the arrival of such sick person report in writing the facts, with the name of such person and the house where he was put down in the city, to the health physician, and every neglect to comply with these provisions shall be a misdemeanor and punishable by fine.

Sec. 139. Any person who shall knowingly bring or cause to be brought into the city any person or property of any kind tainted or affected with malignant fever or pestilential or infectious or contagious disease shall be guilty of a misdemeanor and punishable by fine.

Sec. 140. Every keeper of an inn, hotel, tavern, boarding or lodging house in the city in which any inmate thereof shall be sick with small pox, varioloid, yellow fever or other infectious, contagious or pestilential disease, shall upon the facts coming to his knowledge forthwith report the same to the health officer. Every physician in the city shall report under his hand to the health officer above named, or the mayor, the residence and disease of every patient whom he shall have sick of any infectious or pestilential disease within six hours after he shall have visited such patient. A violation of either of the provisions of this section, or any part of either of them, shall be a misdemeanor punishable by fine.

Sec. 141. The city council shall have power to require the filling up, draining and regulating of any lot or lots, grounds or yards or any other place in the city which shall be unwholesome or have stagnant water therein, or from any other cause to be in such condition as to be liable to produce disease; also to cause all premises to be inspected, and impose fines on the owners of houses under which stagnant water may be found, and to pass such ordinance as they may deem necessary for the purpose aforesaid, and for making, filling up, altering or repairing and constructing with sewers and compelling cleanliness of all sinks and privies, and directing the mode and material for constructing them in the future, and for cleansing and disinfecting the same, and for the cleansing of any house, building, establishment, lot, yard or ground from filthy carrion or impure and unwholesome matter of any kind, and to punish any owner or occupant violating the provisions of any ordinance so passed as aforesaid; and the city council shall also, in addition to the foregoing remedy, have the power to cause any of the improvements above mentioned to be done at the expense of the city and on account of the owners, and cause expenses to be assessed on the real estate or lot or lots benefited thereby, and on filing with the county clerk of Grayson county a statement by the mayor of such expense shall have a first privilege lien on such property to secure such expenditures, and six per cent per annum thereon. For any such expenditures and interest as aforesaid suit may be brought and recovery had in the name of the corporation in any court having jurisdiction, and the statement so made as aforesaid, or a certified copy thereof, shall be full proof and satisfactory evidence of the amount expended in any such improvements.

Sec. 142. The health physician may be authorized by the city council, when the public interest requires, to exercise for the time being such

of the powers and perform such of the duties of chief of police as the city council may in their discretion direct and authorize; to enter all houses and all places, private or public, at all times, in the discharge of his duties under this charter, having first asked permission of the owner or occupants. The city council shall have power to punish by fine any neglect or refusal to observe the orders and regulations of the health physician.

Article X.—Streets and Alleys.

Sec. 143. The city council shall be vested with full power and authority to grade, gravel, repair, pave or otherwise improve any avenue, street or alley or any portion thereof within the limits of said city, whenever by a two-thirds vote of the aldermen elected they may deem such improvement for the public interest: Provided, the city shall pay one-third and the owners of the property two-thirds thereof, except at the intersection of streets from lot to lot across the street either way, and except that occupied by street railways shall be paid for by the city, and said cost, provided, the same shall not exceed twenty per cent of the value of the property, shall be assessed against and shall be a lien upon the property fronting on said street so improved, to be collected in accordance with section 145, unless herein otherwise provided. All moneys collected from these assessments shall be appropriated exclusively to the payment of the bonds issued for the payment of the cost of said improvement.

Sec. 144. Whenever the city council shall determine to make any such improvement it shall cause an estimate to be made by the city engineer or some other officer of the city, or by three aldermen, and such engineer or other officer or committee shall also report a full list of all lots or fractional lots, giving number and size of the same, and the number of the block in which situated, and the names of the owners thereof, if known, and such other information as may be required by the council; and if there be any lot or fractional lot the owner of which is not known, the same shall be entered in said list as unknown. It shall be the duty of the officer or committee aforesaid to enter in said list opposite each lot or fractional lot lying and being on each side of the street, avenue or alley so to be improved as aforesaid, one-third of the estimated expense for such work or improvement on such avenue, street or alley fronting, adjoining or opposite such lot or fractional lot, and upon the acceptance and approval of said report and list by the city council said amount shall be imposed, levied and assessed as taxes, and shall be a lien upon the property for the payment of the same.

Sec. 145. After such action on the part of the city council as above provided for, such officer shall give notice, as may be required by ordinance, of said tax being due and within what time payable, and shall commence forthwith to collect the same; and after the expiration of the period for payment of said tax, said officer or committee may levy on so much of said property on said list in which said tax has not been paid and as will be sufficient to pay the same, and the same notice of sale as is required in sales for other taxes shall be given; and if said tax is not paid before the day of sale, said officer or committee shall sell said property in the name and under the circumstances, and to the extent and subject to the same conditions which are or may be provided by ordinance for the sale of real estate in the city charged with the payment of

taxes imposed by said corporation; and said officer and committee shall execute a deed to the purchaser at any such sale, and all the provisions of this act in reference to a deed from the assessor and collector shall apply to the deed provided by this section.

Sec. 146. In addition to the authority granted said city council to collect said assessment of taxes as aforesaid, they shall have the power and additional remedy of instituting suit in the corporate name in any court having jurisdiction, for the recovery against any owner of property for the amount due for such work, as aforesaid; and the city council shall provide by resolution or ordinance under the provisions of this act for carrying out and executing the powers in this chapter conferred, and may adopt such resolutions and enact such ordinances and make such regulations as they may deem necessary.

Sec. 147. Whenever the city council of said city shall deem it necessary to take any private property in order to open, change, alter or widen any public street, avenue or alley within the city, or for the construction of public wells, water mains and sewers, city parks and other public purposes, within or without the limits of the city, such property may be taken for such purposes by first making just compensation to the owners thereof. If the amount of such compensation can not be agreed upon it shall be the duty of the city council to cause to be stated in writing the real estate or property sought to be taken, the name of the owner and his residence, if known, and file such statement with the county judge of Grayson county.

Sec. 148. Upon the filing of such statement it shall be the duty of the county judge, in term time or in vacation, to appoint three disinterested freeholders and qualified voters of the county as special commissioners to assess the damages to accrue to the owner by reason of such proposed condemnation.

Sec. 149. The commissioners so appointed in their proceedings shall be governed and controlled by the State laws in force in reference to the condemnation of right of ways for railroad companies and the assessment of damages therefor, the city occupying the position of the railroad company; and the law in reference to the application for the condemnation of the right of way for railroad companies, including the measure of damages, the right of appeal and the like, shall apply to an application by said city under this act for the condemnation of property for the purpose of opening, changing or widening streets, avenues or alleys, or for the construction of water mains or sewers, or other public purposes, the city to occupy the position of the railroad company.

Article XI.—Miscellaneous Provisions.

Sec. 150. Whenever in this charter there is given to said city a lien on any property by reason of improvements, tax assessments or for any other reason, said city shall have the right, in addition to the right herein given, to bring suit in the proper court having jurisdiction against such property owner for the amount due and for the foreclosure of its lien herein given, which said suits shall proceed and judgment be rendered for said foreclosure as in other suits of the same nature; and shall have the right to sell and transfer its lien against said property and its cause of action against said property holder, and such transferee shall have all

the rights, powers and authority in the collection of the same as heretofore given said city.

Sec. 151. When the city council shall deem it necessary to pave, grade, gravel or otherwise improve or repair any of its streets or alleys, sidewalks or curbing, as heretofore provided, they shall be authorized to issue city bonds or certificates of indebtedness against the property owner, carrying a lien against the property benefited, due in from one to ten years, bearing interest not exceeding six per cent, payable annually, for so much as may be necessary to such end; and each property owner facing the same, and each railway owner using such street or alley, shall be liable to the city for his or her share of the costs of such improvement, which costs shall constitute and be a lien on said property and shall be due in equal annual installments from one to ten years, as fixed by the council; and all moneys collected from such property or railway owners because of such improvements shall be a separate fund for the purpose of paying off said bonds or certificates issued by the city in such work, and this section is an additional provision to be used in the discretion of the city council; bonds issued for this purpose to be included in four per cent limit, as provided for in section 91.

Sec. 152. Whenever the city council shall deem it necessary to pave, grade, gravel or otherwise improve the streets, alleys, etc., as heretofore provided, and any portion of such streets or alleys is used and occupied by any street railway, it shall have the right to assess the cost of improving that portion used by said railway from track to track, and between tracks and outside of said track as far as is used by said railway, against said railway, and the same shall be a personal obligation against said railway company or owners, and shall be a lien on said railway property; and the city council may provide by ordinance for such improvements, the manner of assessing and collecting for such improvements, and all things necessary to such end.

Sec. 153. Whenever the assessor and collector of said city shall ascertain that any taxable property, real or personal, has not been rendered for any past year or years, and was not assessed for taxation, it shall be his duty, when directed by the council, to notify the then owner or agent that the taxes have not been paid thereon for such year or years, and said property shall be given in for taxation under oath at its fair market value within ten days, and in default the assessor and collector shall ascertain its said value and so list it, and the tax as levied for said year or years shall be due thereon.

Sec. 154. Whenever in any suit by the city instituted, or hereafter instituted, for the collection of taxes, or to determine the title to property sold by the assessor and collector for taxes, and the description of the property in controversy on the assessment rolls or in the collector's deed is uncertain or vague, it may be in said suit shown that said property was by the owner or agent negligently rendered, or not rendered, and that the property described in plaintiff's petition is the property upon which said taxes are due, and is the property intended to be taxed, or was by the city intended to be sold, and said suit shall proceed and the judgment rendered be in regard to the property so shown. And in any suit to determine the right to said property by reason of its sale, as above said, or for taxes due, the owner or defendant can not be heard in said suit save to show that all taxes and costs due thereon are paid; and all

taxes heretofore levied by the city council are here determined to be legal, validated and binding obligations on said property and a personal obligation on the owners, and it shall not be necessary for said city to show any demand by said city prior to said suit.

Sec. 155. Whenever in the opinion of the city council any building, fence, shed, awning, or any structure of any kind, or any part thereof, is liable to fall down and endanger persons or property, they may order any owner or agent of the same, or any owner or occupant of the premises on which such building, shed, awning or other structure stands, or to which it is attached, to take down and remove the same, or any part thereof, within such time as they may direct, and to punish by fine any neglect, failure or refusal to comply herewith. The city council shall in addition have the power to remove the same at the expense of the city, and on account of the owner of the property or premises, and assess the expense on the land on which it was attached, and shall by ordinance provide for such assessment, the mode and manner of giving notice, and the means of recovering such expense.

Sec. 156. Writs issued by the recorder for offenses against the law may be executed and the accused person arrested by the chief of police or any of his deputies, or by any policeman of said city, anywhere in Grayson county.

Sec. 157. Whenever any person has been required by the city judge to give a peace bond, a bond for good behavior or similar bond, under this act, and has not complied with the requirements, and has violated the conditions of said bond, and the fact is made to appear to the city judge, after due notice to the accused and opportunity to be heard, the offender shall be fined not to exceed the sum of two hundred dollars, and the city may sue in any court having jurisdiction for the recovery of the penalty of said bond. Affidavits must be made charging a violation of the conditions of the bond before the city judge shall proceed to investigate the matter.

Sec. 158. In all cases where any provisions of this act or any ordinance passed in pursuance thereof, a person is required to obtain license for any calling, occupation, business or avocation, and has, on complaint before the city judge, been twice adjudged guilty of violating any rules, regulations or ordinance of the city council relating thereto, the council may suspend or remove the license.

Sec. 159. The city council shall, as soon as may be after the commencement of each municipal year, contract by ordinance or resolution with some newspaper published in the city as the official paper thereof, and to continue as such until another is elected, and the council shall cause to be published in such paper all ordinances, notices and other matters required by this title or any ordinance of the city to be published.

Sec. 160. The city council shall at least ten days before the expiration of each municipal year cause to be published in the official paper of the city a full and correct statement of all receipts and disbursements of the city since the last annual report, together with the sources from which the funds were derived, and showing for what purpose disbursed, the condition of the treasury, together with such other information as may be necessary to a full understanding of the official condition of the city.

Sec. 161. Every ordinance imposing any fine or penalty or forfeiture of its provisions shall, after the passage thereof, be published in every

issue of the official paper for ten days, and affidavit of such publication by the printer or publisher of such paper taken before any officer authorized to administer oaths, and filed with the secretary, shall be conclusive evidence of such publication: Provided, that any other competent evidence may be received to establish the fact of publication. Ordinances requiring publication shall be in force ten days after publication: Provided, that the same shall be published for a longer time if therein expressly provided. Ordinances not requiring publication, and none shall require publication but those imposing fine, penalty or forfeiture, shall take effect from and after passage, unless otherwise therein expressly provided.

Sec. 162. All ordinances of the city published in book or pamphlet form by authority of the city council shall be admitted in evidence in all courts and places without further proof.

Sec. 163. The style of ordinance shall be, "Be it ordained by the city council of the city of Sherman," but it may be omitted when published in form of a book or pamphlet.

Sec. 164. All ordinances, rules and regulations in force in said city at the time of the taking effect of this law, and not in conflict herewith, shall remain in full force until altered, amended or repealed by the city council after this law shall take effect.

Sec. 165. All fines, forfeitures, penalties, trial fees and costs for the breach or violation of this act, or of any regulation, order, resolution or ordinance of said city, shall be collected by the chief of police, and by him paid into the city treasury for the use and benefit of the city.

Sec. 166. Resignation of any officer authorized to be elected or appointed under the law shall be made to the city council in writing, subject to their approval and acceptance: Provided, that no officer shall be released from the duties and responsibilities of his office until his successor has been chosen and qualified.

Sec. 167. The city council shall have power to remove any officer for incompetency, corruption, misconduct, habitual drunkenness or malfeasance in office, after due notice and an opportunity to be heard in his defense: Provided, that two-thirds of the aldermen elected shall vote for said removal. In addition to the foregoing power by removal, the city council shall have power at any time to remove any officer elected by them, by resolution declaratory of its want of confidence in such officer: Provided, that two-thirds of the aldermen elected vote in favor of said resolution.

Sec. 168. Whenever any person shall be removed from any office, or his term shall expire, or he shall resign, or for any reason he shall cease to act in his official capacity, he shall deliver over to his successor all books, papers and effects in any way appertaining to his office. In case of his failure or refusal to do so upon demand by his successor, he shall be deemed guilty of a misdemeanor and fined in any sum not exceeding two hundred dollars, after complaint and trial before the recorder's court.

Sec. 169. Any officer intrusted with the collection or custody of funds belonging to the city, who shall be in default to the city, besides being liable to criminal prosecution and a civil action for debt, shall thereafter be incapable of holding any office under said city until the amount of his defalcation, with ten per cent penalty per annum, has been fully paid.

Sec. 170. No member of the city council shall hold any other employment or office under the city while he is a member of the city council, unless herein otherwise provided; and no member of the city council or any other officer of the city shall be directly or indirectly interested in any work, business or contract, the price, expense or consideration of which is to be paid by the city, nor to be surety of any person having contract work or business with the city for the performance of which the surety may be required, nor to be surety on the official bond of any officer of the city.

Sec. 171. Each alderman shall be fined three dollars for each meeting he fails to attend, unless on account of his own sickness or that of members of his family, or for good reason. Any member remaining absent from three regular meetings of the board, unless prevented by sickness or the sickness of the members of his family, or for good reason, without first having obtained leave of absence at a regular meeting, shall be deemed to have vacated his office, and the vacancy shall be filled as other vacancies in the office of alderman.

Sec. 172. The city council shall have the power to prescribe the duties of all officers and persons appointed by them or elected to any office or place whatever, subject to the provisions of this law; to remit in whole or in part, on such conditions as may be deemed proper, by a vote of two-thirds of the members present, any fine or penalty or cost belonging to the city.

Sec. 173. It shall not be necessary in any action, suit, or proceeding in which the city of Sherman shall be a party, for any bond, undertaking or security to be executed in behalf of the city, either in a trial court or court of appeal; but all such actions, suits and proceedings shall be conducted in the same manner as if such bond, undertaking or security had been given, and for all the purposes of such actions, suits and proceedings the city shall be liable in the same manner and to the same extent as if the bond, undertaking or security in ordinary cases has been duly executed.

Sec. 174. Before the city of Sherman shall be liable to any person for any damage for personal injury alleged to have been received by reason of any defect in its streets, sidewalks, alleys, bridges, or any other portion of said city, the person alleging such injuries shall show that said city has had notice, or could have had notice by proper diligence, of such defects prior to such alleged injury.

Sec. 175. Before the city of Sherman shall be liable for any damage of any kind, such person or some one in his behalf shall give the city council notice in writing of such injury within thirty days after the same shall have been received, stating in said notice when and how the same occurred and the extent thereof.

Sec. 176. The city council shall never extend the time for the payment of taxes, and all taxes due the city shall be payable at the office of the assessor and collector without demand; shall be a lien on the property until paid, and limitation shall never be pleaded in any suit for the collection thereof.

Sec. 177. The cemetery lots which have been or which may hereafter be laid out and sold for said city for private places of burial shall, with their appurtenances, be forever exempt from taxes and forced sale.

Sec. 178. All rights, penalties, fines and forfeitures in suits or other-

wise which have accrued under the laws heretofore in force shall be vested in and prosecuted by the corporation hereby created, and no pending suit or right of action shall be effected by the passage of this law, but the same shall be prosecuted or defended, as the case may be, by the corporation hereby created.

Sec. 179. All property, real and personal, belonging to the city of Sherman is hereby vested in the corporation created by this act, and the officers of said city now in office shall continue in same until superseded in conformity to the provisions hereof, but shall be governed by the provisions of this act from and after it takes effect.

Sec. 180. There shall be a digest of the ordinances of the city which are of a general nature published within four months after the first Tuesday in April, 1895, and a like digest within every five years thereafter: Provided, it shall be the duty of each council to cause to be published in pamphlet form at the end of each municipal year all the ordinances passed during the said year.

Sec. 181. All city officers to be elected on the first Tuesday in April, 1895, shall be elected in accordance with the general laws, and under which said city of Sherman was acting before the passage of this law, and said election shall be had and held as provided under said law for cities and towns of over one thousand inhabitants; but all elections hereafter in said city shall be as in this charter provided.

Sec. 182. This act shall be deemed a public law, and judicial knowledge shall be taken of same in all courts and places.

Sec. 183. That all laws and parts of laws not in conflict with this act shall be and the same are in force in the government of said city.

Sec. 184. Owing to the crowded condition of the calendar and the near approach of the adjournment of the Legislature creates an emergency and imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended and that this bill be placed on its third reading.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 19th day of April, A. D. 1895, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

SAN ANTONIO—CITY CHARTER.

CHAP. 7.—[S. B. No. 300.] An act to amend sections 43 and 203 of an act incorporating the city of San Antonio, approved August 13, 1870, and of the acts amendatory thereof, passed by the Twenty-second Legislature, being chapter 24 of said acts, and to add sections 203a and 203b thereto.

Section 1. Be it enacted by the Legislature of the State of Texas as follows: That sections 43 and 203 of an act incorporating the city of San Antonio, approved August 13, 1870, and of the acts amendatory thereof, passed by the Twenty-second Legislature, be and the same are hereby amended so as to hereafter read as follows:

Section 43. To borrow money on the credit of the city and issue bonds therefor for permanent public improvements to an amount not to exceed fifty thousand dollars for and during any one year, commencing June first, 1895; and every proposition to borrow money as aforesaid shall be submitted to the qualified tax paying voters of the city, and shall distinctly specify the purposes for which the loan is desired and the permanent public improvement to be constructed, and if said proposition be sustained by a majority of said votes cast, such loan shall be lawful. All bonds shall specify for what purpose they were issued, and when sold shall net the city not less than their par value with accrued interest to date of payment of proceeds into the city treasury; and the bonds shall be negotiated in lots as the city council may determine and direct: Provided, that no debts shall be contracted for the payment whereof such bonds or lot thereof are issued until such bonds or lot of bonds shall have been disposed of and the proceeds thereof paid into the city treasury; and no debt shall ever be created by said city unless at the same time provision be made to assess and collect annually a sufficient sum to pay the interest thereon and create a sinking fund of at least two per cent thereon; which fund shall not be diverted or drawn for any other purpose; and the city treasurer shall honor no draft drawn on said fund except to pay the interest, or to redeem the bonds for which it was provided: Provided, the rate of tax shall not exceed one-half of one per cent, and the rate of interest paid shall not exceed six per cent: Provided, also, no loan shall be made for any other purpose or purposes than those connected with the corporation of said city; and no loan shall be made to aid any private enterprise, railroad, or undertaking not under the management or control of the city council: Provided, further, that the sinking fund for the redemption of any loan or debt shall be invested, as fast as the same accumulates, in United States interest bearing bonds, bonds of the State of Texas, or in bonds of said city, and the interest of such bonds shall be reinvested, and such bonds shall be sold when necessary to pay the interest or principal of the bonds issued under the provisions of this section.

Section 203. Whenever in the opinion of the city council it shall become necessary or proper to appropriate private property for the use of the city for streets, alleys, avenues, boulevards, parks, public squares, plazas, sewers, gas works, water works, market houses, school houses, or other public purposes authorized by law, such property may be condemned for such use in the following manner: The city council shall declare by ordinance the necessity or propriety of such appropriation, describing the property sought to be appropriated, and stating the name and residence of the owner, if known, and if unknown, stating that fact, and shall file or cause to be filed with the city clerk a plat of the property proposed to be condemned. The damages to accrue to the owner of such property by reason of such condemnation shall be assessed by three commissioners, who shall be disinterested freeholders of the city, one to be selected by the owner of the property, one to be selected by the mayor, and the third to be selected by the two thus appointed. The city clerk shall issue to such owner a notice calling upon him to appoint the commissioner to be selected by him, and such notice shall be accompanied by a copy of such ordinance and a copy of this section of the charter, which notice and copies shall be delivered to such owner by the city marshal. If such

owner shall fail to appoint the commissioner to be selected by him, giving the name of such appointee to the city clerk within ten days after the service of such notice and copies upon him, the mayor shall appoint such commissioner. If the two commissioners so appointed can not agree upon the selection of the third, then the county judge of Bexar county shall, upon application of the mayor, appoint such commissioner. Such commissioners, or any two of them, after being duly sworn to perform the duties of their appointment with fidelity and impartiality, shall fix a time and place for the hearing of the parties upon the matter of such assessment, and shall give not less than ten days notice to both parties of such time and place, which notice may be served by any disinterested person capable of making oath to his return, who shall make his return under oath. When the property sought to be condemned is the property of the estate of a deceased person or of a minor, or a person of unsound mind, and such estate has a legal representative, or such minor or person of unsound mind has a guardian, the notice and copies hereinbefore provided for shall be served upon such legal representative or guardian, who shall make the appointment hereinbefore required to be made by the owner and within the time hereinbefore prescribed; otherwise the same shall be made by the mayor. When the property sought to be condemned is the property of a non-resident of this State, such owner shall have twenty days after service of notice and copies in which to appoint the commissioner to be selected by him, and twenty days' notice of the hearing before the commissioners after service of notice thereof. At the time and place appointed for such hearing, or at any other time and place to which the hearing may be adjourned, the said commissioners or any two of them shall proceed to hear evidence and assess the damages to accrue to the owner of the property by reason of its condemnation. For such purpose the said commissioners shall have power to compel the attendance of witnesses and the production of testimony and to administer oaths and punish for contempt as fully and in the same manner as is provided by law for the district and county courts. A report of such assessment, signed by the commissioners making the same, shall be filed by them with the city clerk. The city council shall by ordinance accept or reject such report. If such report be accepted by the city council, the damages so assessed shall be paid to the owner of the property or his legal representative or guardian, as the case may be, or deposited with the city treasurer, subject to the order of such owner, legal representative or guardian, after which such property may at any time be taken for the use of the city. If the report be rejected by the city council, proceedings may be taken anew to assess the damages. If no report be made within thirty days after the appointment of the commissioners, proceedings may be taken anew to assess the damages.

Sec. 2. That the following sections be and the same are hereby added to the said act of incorporation, and all acts amendatory thereof:

Section 203a. The method of condemning private property for the use of the city, prescribed in section 203 of its charter, as amended by this act, shall not be exclusive: and private property may also be condemned for the uses of the city for the purposes expressed in said section, by the same proceedings and under the same rules, so far as applicable, as are now provided by the general laws of this State for the condemnation of private property for the use of railroad corporations, or in any

other manner or by any other proceedings authorized by the general law of this State for the condemnation of private property for public use.

Section 203b. Said city is hereby authorized to acquire by purchase, gift, devise or condemnation, any private property or any interest therein, whether such property be situated within or without the corporation limits of said city, which may be necessary or proper for the establishment and maintenance of an efficient system of sewers for said city. Said city is hereby given the right to lay, construct and maintain its sewers in, under, and across or along any public street, highway or public grounds within or without the corporation limits of said city; Provided, that due regard shall be had for franchise rights and vested rights in, upon and along said streets, highways and public grounds.

Sec. 3. The near approach of the close of the present session of the Legislature, and the importance of the immediate operation of the provisions of this act create an imperative public necessity for the suspension of the constitutional rule requiring all bills to be read on three several days; and said rule is hereby suspended, and this act shall take effect and be in force from and after its passage.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 30th day of April, A. D. 1895, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

FORT WORTH—CITY CHARTER.

CHAP. 8.—[S. B. No. 191.] An act to amend sections 38, 103, 105, 106 and 138 of an act entitled "An act to incorporate the city of Fort Worth, and to grant a charter to said city," approved March 20, 1889, and sections 6, 7, 29, 34, 88 and 102 of said act, as amended by the Twenty-second Legislature in 1891, and to add thereto sections 35a, 35b, 101a, 101b, 101c, 101d, 101e, 102a, 103a, 104a, 106a, 106b, and also 105a, 105b, 105c in reference to the board of equalization, and providing for an appeal from said board to the district court.

Section 1. Be it enacted by the Legislature of the State of Texas: That sections 6, 7, 29, 34, 38, 88, 102, 103, 106 and 138 of said charter be so amended as to hereafter read as follows:

Section 6. Officers—How chosen.—The mayor and aldermen, city marshal, city attorney, city treasurer, city assessor and collector shall be elected by the qualified voters of said city as hereinafter provided, and shall hold their respective offices for two years, and until the election and qualification of their successors.

Section 7. The city council shall, at its first regular meeting in April after the annual election in the year 1895, and every two years thereafter, elect a city secretary, a city judge, a city engineer, a street commissioner, a chief of fire department and a superintendent of waterworks, who shall hold their respective offices for two years and until their successors are elected and qualified; and should said city council fail to elect said city secretary, city judge, city engineer, street commissioner,

chief of fire department and superintendent of waterworks at its first regular meeting in April, then it shall do so at its next regular meeting.

Section 29. Powers of City Judge.—The city judge shall have full power and authority to enforce all process of said city court. He may punish all contempts of his court by fines or imprisonment, or both, and compel the attendance of all witnesses by attachment. He may require of any person arrested a bond for his or her good behavior and to keep the peace. He may require of any person arrested a bond for his or her appearance before said court, with two good and sufficient sureties, which bond, as well as all other bonds taken in any proceedings of said court, shall be payable to the city of Fort Worth. He shall have full power to administer official oaths and affirmations and give certificates therefor. The city council may determine what costs, if any, shall be charged for proceedings in and for all process issued by said court. The city judge shall perform all duties herein required, and such other duties as may be prescribed by ordinance not inconsistent with the Constitution of the State. All fines and costs and fines imposed by said court shall be paid into the city treasury for the benefit of the city. The city secretary shall be clerk of said court with a seal, and shall issue all subpoenas and other process known to the law which State courts in such cases may issue, and shall have full power to administer oaths and affirmations and give certificates therefor, and shall receive for his services such compensation as the city council may allow. In cases of temporary failure to act, for any cause, on the part of the city judge, the mayor is hereby authorized to appoint some person qualified, who shall discharge the duties of said office and receive the pro rata compensation therefor. The salary of the city judge for services rendered shall be seventy-five dollars per month.

Section 34. Powers and Duties of Treasurer, Etc.—The treasurer of said city shall receive and securely keep all moneys belonging to the city, and make all payments of the same upon the order of the mayor, attested by the secretary, under the seal of the city: Provided, that no order shall be paid, unless it shall show on its face that the city council has directed its issuance, and for what purpose. He shall render a full and correct statement of his receipts and payments to the city council at its first regular meeting in every quarter, and at all other times, whenever he is required by said city council so to do. At the end of every half year he shall cause to be published, at the expense of the city, a report showing the amount of receipts and expenditures for six months next preceding, and the general condition of the treasury, and he shall do and perform such other acts and duties as the city council may require; and for his services he shall receive such salary as the city council may fix as hereinafter provided, not to exceed twelve dollars per annum, payable monthly. He shall execute a bond payable to the city, in such an amount and in such form as may be required by the council, and with sufficient security to be approved by the council, and conditioned for the faithful discharge of his duties in accordance with the charter and ordinances of the city. He shall also execute another bond, payable to the city, in such amount and in such form as may be required by the council, and conditioned for the faithful discharge of his duties by reason of all school funds from any source coming into his hands. The city council may require of him a new bond whenever they deem the existing

bond for any reason insufficient, and whenever said new bond shall be required, he shall perform no official act until same is given.

Section 38. Further Duties may be Required of Officers, Etc.—The city council may from time to time require other and further duties of all officers whose duties are herein prescribed, and fix, if need be, compensation for such extra duties, and define and prescribe the duties and powers of all officers appointed or elected to any office of the city, and whose duties are not specially herein mentioned, and fix their compensation when not herein fixed. They may also require bonds to be given to said corporation by all officers for the faithful performance of their duties. The council shall also provide for the filling of vacancies in all offices not herein provided for, and in all cases of vacancies the same shall be filled for the unexpired term only. No officer elected by the council shall hold office longer than the continuance of the council electing him, except school trustees and other officers whose terms are hereinbefore provided for.

Section 88. City Bonds shall specify what, Etc.—All bonds shall specify for what purpose they were issued, and shall not be invalid if sold for less than their par value; and when any bonds are issued by the city, a fund shall be provided to pay interest and create a sinking fund to redeem the bonds, which fund shall not be diverted nor drawn upon for any other purpose: Provided, however, that said sinking fund may, as it accumulates, be invested in bonds of the United States, bonds of the State of Texas, and Texas county bonds, or bonds of the city of Fort Worth: Provided, however, this shall not apply to any bonds specially issued by the council for the purpose of investing the sinking fund therein; and the city treasurer shall honor no draft upon said fund except to pay interest upon or redeem the bonds for which it was provided, or for investment in other securities as above provided.

Section 102. The assessor and collector shall by virtue of his tax rolls have power and authority to seize and levy upon personal property and real estate, and sell the same to satisfy delinquent taxes. When he seizes personal property for such purposes he shall keep the same at the expense of the owner until sale is made, and shall give notice of the time and place of sale of same by posting a written notice upon the bulletin board at the city hall and one at the court house in the city of Fort Worth at least ten days before the day of sale. He shall sell the same to the highest bidder for cash for all taxes, interests, costs and expenses in caring for said property and shall make an entry in the book of sales of the amount realized: Provided, however, that this section shall not apply to any personal property which is now exempt under the laws of the State of Texas.

Section 103. The assessor and collector shall, where any real estate has been sold for the payment of taxes, make, execute and deliver a deed for said property to the person purchasing the same, and such deed shall be prima facie evidence in all controversies and suits in relation to the right of the purchaser, his heirs and assigns, to the premises thereby conveyed of the following facts:

1. That the land or lots or portions thereof conveyed was subject to taxation or assessment at the time the same was advertised for sale, and had been listed or assessed in the time or manner required by law.

2. That the taxes or assessments were not paid at any time before the sale.

3. That the land, lot or portion thereof conveyed had not been redeemed from the sale at the date of the deed.

And said deed shall be conclusive evidence of the following facts:

1. That the land, lot or portions thereof sold were advertised for sale in the manner and for the length of time required by law.

2. That the property was sold for taxes or assessment as stated in the deed.

3. That the grantee in the deed was the purchaser.

4. That the sale was conducted in the manner prescribed by law; and in all controversies and suits involving the title to the land claimed and held under and by virtue of such deed the person claiming title adverse to the title conveyed by such deed shall be required to prove, in order to defeat said title, either that the land was not subject to taxation at the date of the sale; that the taxes or assessment had been paid before the sale; that the land had never been listed or assessed for taxation and assessment as required by this charter, or some ordinance of the city, or that the same had been redeemed according to the provisions of this charter, and that such redemption was made for the use and benefit of the person having the right of redemption under the law; but no person shall be permitted to question the title acquired by said deed without first showing that he or the person under whom he claims title had title to the land at the time of the sale, or that the title was obtained after the sale, and that all taxes due upon the lands have been paid by such person or the person under whom he claims title as aforesaid.

Section 105. A board of equalization for the city of Fort Worth, to be composed of three freeholders, shall be appointed as follows: One by the county judge of Tarrant county, one by the mayor of said city, and one by a majority of the city council of said city, all of whom shall be appointed in January, or as vacancies may occur, and who shall hold their offices for two years, except the first board under this act, which shall be appointed as soon as this act goes into effect, and not later than the first day of August, 1895, and shall hold their offices until their successors shall qualify.

Section 105a. The duties and powers of the board of equalization shall be the same as prescribed in the general laws for boards of equalization for cities and towns; said general law to be in all things applicable to said board, excepting in the manner of their appointment and excepting also in the matter of the right of appeal from the final action of said board to the district court as hereinafter provided.

Section 105b. The power and authority of said board of equalization to correct and change assessments and valuations of property at its first session under this act shall apply in the case of all persons whose taxes for the years 1892, 1893 and 1894, or either of said years, have not been paid or collected; and as to all such taxes and costs where the property has heretofore been sold for taxes and bought in by the city, a lien shall exist in favor of the city, and the party applying for relief against taxes heretofore imposed for said years shall be held to admit the existence of said lien on all such property, and said board shall have like power in such cases with reference to errors and excessive valuations for said years as for the current year, and shall certify any action it may take as to the

assessments for said years to the assessor and collector of taxes, who shall be governed thereby: Provided, that where, in cases involving assessments for the years 1892, 1893 and 1894, or either of them, the property on which taxes are unpaid has been transferred subsequently to the assessment, the assignee or owner of the property at the time application may be made to the board of equalization in reference thereto shall have the right to make such application for a correction or reduction of the assessment.

Section 105c. The action of the board of equalization shall be final in all cases unless an appeal is taken therefrom to the district court of Tarrant county, which may be done by any person or the agent or attorney of any person aggrieved by the action of the board, by giving notice in writing to said board of such appeal and the grounds thereof within ten days after the final approval of the assessment rolls by said board, and by giving a bond payable to the city, to be approved by the city assessor, for the sum of fifty dollars, conditioned that said appellant will pay all costs of such appeal if the action of the board of equalization should be sustained by the district court, or if the valuation of the property of such appellant shall be raised above the amount at which it stands assessed; a copy of such bond and such notice of appeal, and a description made by the assessor of the property of the appellant involved therein shall be filed in said district court, and said case shall be docketed on the civil docket of said court in the name of the appellant as plaintiff against the board of equalization of the city of Fort Worth, and all such appeals shall be presented to the first term of the district court after the notice of appeal is given, and shall have precedence for trial of all civil cases in said court, and the decision of said district court in such matters shall be final: Provided, however, that if such appeal has not been finally adjudicated by the 31st day of December of the current year it shall be the duty of the appellant to pay all of said taxes assessed by the board of equalization against him, and in case he fails to pay said taxes by said time said appeal shall be dismissed and the action of the board of equalization held to be final. And in event appellant pays all taxes assessed against him by the board of equalization on or before December 31 of the current year, then in event the court shall upon final adjudication place a valuation on appellant's property lower than the valuation placed upon said property by said board of equalization, the amount of taxes paid on the valuation which is in excess of the valuation fixed by the court shall be refunded to him by warrant drawn by the order of the city council. The list of property and the values thereof as settled by the board of equalization, or a copy thereof, or so much thereof as may be pertinent to the question at issue, may be produced in court to be used in such trials. The notice of appeal from the action of the board as to the assessments for 1892, 1893 and 1894 shall be given within ten days after the specific action or order of the board complained of by the party appealing: Provided, that the party appealing from the action of the board of equalization as to the taxes for said years, when the appeal has not been determined prior to December 31, 1895, shall pay his full amount of taxes and costs for said years, or said appeal shall be dismissed and the action of the board of equalization held to be final.

Section 106. Redemption of Land Sold for Taxes.—Whenever any real property is bid off to the city or to any individual for delinquent taxes

the owner or his attorney or agent may redeem the same at any time within two years from date of sale by paying double the amount of said taxes and costs.

Section 138. Condemnation of Property for Streets.—Whenever the city council of said city shall deem it necessary to take any private property in order to open, change, alter or widen any public street, avenue or alley, or for the construction of water mains or sewers within or without the limits of the city, for the construction of dams or reservoirs within or without the limits of the city, or any quantity of land for the storage of water, such property may be taken for such purpose by first making just compensation to the owners thereof. If the amount of such compensation can not be agreed upon it shall be the duty of the city council to cause to be stated in writing the real estate or property so sought to be taken, the name of the owner, and his residence if known, and file such statement with the county judge of Tarrant county.

Sec. 2. That the said charter of the city of Fort Worth be and the same is hereby amended by adding thereto sections 35a, 35b, 101a, 101b, 101c, 101d, 101e, 102a, 103a, 104a, 104b, 106a, 106b, as follows:

Section 35a. If the assessor and collector shall discover any real or personal property which was subject to taxation for any previous year, and which for any cause has escaped taxation for that year, he shall assess the same in a supplement to his next assessment roll at the same rate under which such property should have been assessed for such year, stating the year, and the taxes thereon shall be collected in the same manner as other assessments.

Section 35b. The assessor and collector shall assess all property which for any cause has not been rendered, placing such valuation thereon as he may deem just. If the owners of such property are unknown such assessment shall be in the name "unknown."

Section 101a. A lien is hereby created on all property, personal and real, in favor of the city of Fort Worth for all taxes, ad valorem, occupation or otherwise. Said lien shall exist from January in each year until the taxes are paid. Said lien shall be prior to all other claims, and no gift, sale or assignment or transfer of any kind, or judicial writ of any kind, shall ever defeat such lien; but the assessor and collector can pursue such property and whenever found may seize and sell enough thereof to satisfy the taxes due.

Section 101b. If any one against whom personal tax is assessed, and which is due and unpaid, whether the same be delinquent or not, shall have removed out of the city, or shall be about to remove out of the city, or shall have removed or about to remove his personal property out of the city, it shall be the duty of the collector to proceed at once and collect such taxes by seizure and sale of personal property of such person to be found in the city of Fort Worth or anywhere in the State of Texas: Provided, however, that this section shall not apply to any personal property which is now exempt under the laws of the State of Texas.

Section 101c. No demand for taxes shall be necessary, but it is hereby made the duty of every person or corporation subject to taxation to attend at the assessor's and collector's office at some time between the second Monday in November and the first Monday in January of the following year and pay his, her or its taxes. If any one fails to pay the taxes due before the first Monday in January the same shall be delin-

quent: Provided, however, the city council may give an extension of time in which to pay taxes, if the same be deemed advisable.

Section 101d. The city council shall have the power to assess the property and shares of corporations, companies, banks and such other institutions as the same are now assessed or may be assessed by the State law in such cases made and provided, and shall have full power to enforce the collection of such taxes in such manner as by said council may be deemed necessary.

Section 101e. In all cases where a taxpayer makes an assignment of his property for the payment of his debts, or where his property is levied upon by creditors by writs of attachment or otherwise; or where the estate of a decedent is or becomes insolvent, and the taxes assessed against such person or party, or against any of his estate, remains unpaid, in part or in whole, the amount of such unpaid taxes shall be a first lien upon said property: Provided, when taxes are due by the estate of a deceased person the lien herein provided for shall be subject to the allowances to widows and minors, funeral expenses and expenses of last sickness; and such unpaid taxes shall be paid by the assignee when said property has been assigned by the sheriff out of the proceeds of sale, in case said property has been seized under attachment or other writ, and by the administrator or other legal representative of the decedent, and if such taxes shall not be paid all said property may be levied on by the assessor and collector and sold for such taxes in whomsoever's hands it may be found.

Section 102a. Before sales of real estate are made notice of the time and place of such sales, together with a substantial description of the property, shall be given by posting two notices, one upon the bulletin board of the city hall, and the other at the court house in the city of Fort Worth; also by publication in some newspaper in the city once a week for at least three weeks before the day of sale, which notice shall contain a statement of the amount of taxes due on each particular piece of property.

Section 103a. The personal property of all persons owing any taxes to the city of Fort Worth is hereby made liable for all of said taxes, whether the same be due on personal or real property, or upon both: Provided, however, that this section shall not apply to any personal property which is now exempt from forced sale under the laws of the State of Texas.

Section 104a. In addition to the foregoing powers granted to the city of Fort Worth for the collection of taxes, it is hereby authorized and empowered to institute suit in any court of competent jurisdiction against any delinquent tax payer to foreclose a lien in favor of said city upon any real estate or personal property owned by such delinquent, and upon the recovery of judgment to have the same sold to satisfy such tax, and the purchaser at such sale shall receive a good and absolute title. Such suit shall be brought in the name of the city of Fort Worth as plaintiff; and it shall not be necessary to bring a separate suit against such delinquent tax payer, but any number of such delinquents may be joined as defendants in one suit, and a foreclosure decreed against each, and the costs of suit shall be in proportion to the amount of taxes of such delinquents so joined. Should any delinquent taxpayer against whom suit is instituted be a non-resident of the State, the clerk of the court where said suit is pending shall, upon application of the plaintiff or his attor-

ney, issue a notice to such defendant, as required by article 1230, Revised Statutes of the State of Texas, except that such notice shall not be accompanied by a certified copy of plaintiff's petition. Should the city attorney or assessor and collector make affidavit before the clerk of the court wherein such suit is pending that the residence of any defendant is unknown to the affiant, or that he is a transient person, or that he is a non-resident, then such defendant shall be cited by publication as provided in article 1235, Revised Statutes of the State of Texas: **Provided, that in sale for the satisfaction of such delinquent taxes only sufficient amount of the property shall be sold to satisfy the unpaid taxes; and persons whose property shall be sold shall have two years in which to redeem the same by paying double the amount of such taxes and costs and all costs of suits.**

Section 104b. The city of Fort Worth is hereby authorized and empowered to institute suit in any court of competent jurisdiction to collect any back taxes against any delinquent taxpayer and to foreclose the lien for such taxes, and upon recovery of judgment to have the property against which such tax was levied and assessed sold to satisfy the same, **and the purchaser at such sale shall receive a good and absolute title to such property.** Such suits shall be brought and service had in the manner prescribed in the foregoing section: **Provided, that in sales for the satisfaction of such delinquent taxes only a sufficient amount of property shall be sold to satisfy the unpaid taxes: Provided, further, that any person whose property is so sold shall have two years in which to redeem the same by paying double the amount of such taxes and costs and his proportion of all costs of suit.**

Section 106a. A sale of personal property for delinquent taxes shall convey with it an absolute title, and the owner shall have no right to redeem the same.

Section 106b. And, finally, the city council shall have full power to do or cause to be done everything whatsoever necessary to enforce a prompt assessment and collection of all taxes and assessments provided for in this charter, and to pass all ordinances and make all rules and regulations necessary for the sale of property for said taxes and assessments.

Sec. 3. Whereas, it is of great importance that the city of Fort Worth shall have the power to secure better government of said city, an emergency exists requiring the constitutional rule requiring bills to be read on three several days be suspended, and that this bill be placed upon its third reading and final passage, therefore an emergency and a great public necessity exists that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 23d day of April, A. D. 1895, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

RELIEF OF JNO. A. CAPLEN.

CHAP. 9.—[H. B. No. 230.] An act for the relief of Jno. A. Caplen, and to return to him certain moneys in the State Treasury, being proceeds of sale of land escheated to the State, which was purchased by him.

Section 1. Whereas, heretofore, to-wit: on the 11th day of January, 1890, judgments were rendered by the district court of Harris county, Texas, in two causes pending in said court, one numbered 13210 entitled State of Texas vs. Unknown Heirs of Philo C. Merwin, and the other numbered 13211 entitled State vs. Unknown Heirs of Caroline M. Peck, escheating to the State of Texas two tracts of land, containing two hundred acres each, out of the Ritson Morris survey in said county of Harris, by virtue of which escheat judgments said lands were afterwards sold by the sheriff of said county of Harris, and the same were purchased at said sale by Jno. A. Caplin of the county of Galveston for the sum of and price of one thousand four hundred and twenty dollars; and,

Whereas, the net proceeds of sale, to-wit, the sum of one thousand and sixty-six dollars and forty-five cents remaining after the payment of the costs of said escheat proceedings was by the sheriff of said Harris county paid into the Treasury of the State, which said net proceeds of said sale are still in the Treasury of the State; and whereas, said escheat proceedings have been by the courts of the State declared and adjudged to be void in suits brought against said Caplen by said Caroline M. Peck and parties claiming under said Philo C. Merwin for the recovery of said lands, and the said lands adjudged to the said parties claiming same as against said Caplin, and the deeds therefor made to said Caplin by virtue of his purchase thereof at said escheat sales cancelled and annulled, because said Philo C. Merwin and Caroline M. Peck were not dead at the time said judgments were rendered escheating said land; and, whereas, inasmuch as said judgments escheating said lands have been declared void, and said Caplin by reason thereof has been deprived of said land, it is but just and right that the State should return to said Caplin the money in the State Treasury paid by him for said lands.

Sec. 2. Therefore, be it enacted by the Legislature of the State of Texas: That the aforesaid sum of one thousand and sixty-six dollars and forty-five cents now in the State Treasury, received from the sale of said lands, be returned to the said Jno. A. Caplin, and that the Treasurer of the State be and he is hereby empowered and directed to pay the same to said Caplin.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 29th day of April, A. D. 1895, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

PATENT TO HEIRS OF S. H. CARTER.

CHAP. 10.—[H. B. No. 688.] An act to authorize the Commissioner of the General Land Office to issue to the heirs of S. H. Carter, a patent to the north half and southeast quarter of section No. 2, block No. 1, in Fisher county, Texas, as surveyed by the San Antonio and Mexican Gulf Railway Company, and set apart to the benefit of the common school fund of the State of Texas.

Section 1. Whereas, on, to-wit, the 25th day of September, 1893, the State of Texas through its State land board sold and awarded to S. H. Carter said land at the price of one dollar per acre upon the application and obligation of and the cash payment by said S. H. Carter as required by law; and,

Whereas, the said S. H. Carter, and his heirs subsequent to his death, have made full payment of all the principal and interest due upon said obligation for said land, including patent fees; and,

Whereas, the Commissioner of the General Land Office now refuses to issue a patent thereon for the reason that it appears from the report of the district surveyor that said land has water thereon and should have been valued and sold at two dollars per acre; therefore,

Sec. 2. Be it enacted by the Legislature of the State of Texas: That the Commissioner of the General Land Office be and he is hereby authorized to issue to Jane A. Carter, the surviving widow of said S. H. Carter, and to their heirs and assigns, a patent to said land, without a requirement of further or additional payment thereon.

Sec. 3. Whereas, the near approach of the close of the present session of the Legislature creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the 29th day of April, A. D. 1895, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

THE STATE OF TEXAS,
Department of State.

I, Allison Mayfield, Secretary of State of the State of Texas, certify that the foregoing laws, passed at the regular session of the Twenty-fourth Legislature, have been carefully examined and compared with the original enrolled bills, now on file in this department, and are true copies of said originals.

I further certify that the Twenty-fourth Legislature convened in the city of Austin January 8, A. D. 1895, and adjourned April 30, A. D. 1895.

In testimony whereof, I have subscribed my name and
[Seal] have hereto affixed the seal of the State of Texas, in the city of Austin, this June 24, A. D. 1895.

ALLISON MAYFIELD,
Secretary of State.

GENERAL LAWS
OF
THE STATE OF TEXAS

PASSED AT THE
FIRST CALLED SESSION OF THE TWENTY-FOURTH LEGISLATURE

CONVENED
AT THE CITY OF AUSTIN

OCTOBER 1, 1895, AND ADJOURNED OCTOBER 7, 1895.



AUSTIN
1896

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GENERAL LAWS OF TEXAS.

FIRST CALLED SESSION

TWENTY-FOURTH LEGISLATURE, 1895.

PRIZE FIGHTING, ETC.—PENALTIES THEREFOR.

CHAP. 1.—[S. B. No. 3.] An act to prohibit prize fighting and pugilism, and fights between men and animals, and to provide penalties therefor, and to repeal all laws in conflict therewith.

Section 1. Be it enacted by the Legislature of the State of Texas: That any person who shall voluntarily engage in a pugilistic encounter between man and man, or a fight between a man and a bull or any other animal, for money or other thing of value, or for any championship, or upon the result of which any money or any thing of value is bet or wagered, or to see which any admission fee is charged, either directly or indirectly, shall be deemed guilty of a felony, and upon conviction shall be punished by imprisonment in the penitentiary not less than two nor more than five years.

Sec. 2. By the term "pugilistic encounter," as used in this act, is meant any voluntary fight or personal encounter by blows by means of the fists or otherwise, whether with or without gloves, between two or more men, for money or for a prize of any character, or for any other thing of value, or for any championship, or upon the result of which any money or any thing of value is bet or wagered.

Sec. 3. That all laws and parts of laws in conflict herewith be and the same are hereby repealed.

Sec. 4. The fact that there is now no adequate penalty against prize fighting and pugilism, or fights between men and beasts, creates an imperative public necessity and emergency requiring the suspension of the constitutional rule requiring bills to be read on three several days, and that this law should take effect and be in force from and after its passage, and it is hereby so enacted.

Approved October 3, 1895.

APPROPRIATION—MILEAGE AND PER DIEM.

CHAP. 2.—[S. B. No. 1.] An act making an appropriation for mileage and per diem pay of members and per diem pay of officers and employes of the first called session of the Twenty-fourth Legislature of Texas, convened October 1st, 1895, by proclamation of the Governor.

Section 1. Be it enacted by the Legislature of the State of Texas: That the sum of twenty thousand dollars, or so much thereof as may be necessary, be and the same is hereby appropriated out of any money in

the treasury of this State, not otherwise appropriated, for the payment of mileage and per diem pay of the members and the payment of the per diem pay of the officers and employes of the first called session of the Twenty-fourth Legislature of Texas, convened October 1st, 1895, by proclamation of the Governor.

Sec. 2. That the certificate of the Secretary of the Senate, approved by the President thereof, or the certificate of the Chief Clerk of the House, approved by the Speaker thereof, shall be sufficient evidence to the Comptroller upon which he shall audit the claims and issue his warrants upon the Treasurer for the respective amounts.

Sec. 3. The public importance of the objects herein contemplated creates an imperative public necessity and emergency fully authorizing the suspension of the constitutional rule requiring bills to be read on three several days in each house, and said rule is hereby suspended, and that this act shall take effect and be in force from and after its passage, and it is so enacted.

Approved October 3d, 1895.

TAXATION—DELINQUENT TAX PAYERS—STATUTE OF LIMITATION.

CHAP. 3.—[S. B. No. 8.] An act to prevent delinquent tax payers from pleading the statute of limitation by way of defense against the payment of any taxes due from him or her either to the State or any county, city, or town.

Section 1. Be it enacted by the Legislature of the State of Texas: That no delinquent tax payer shall have the right to plead in any court or in any manner rely upon any statute of limitation by way of defense against the payment of any taxes due from him or her either to the State or any county, city, or town.

Sec. 2. Whereas, there is now no law in this State to prevent delinquent tax payers from setting up the statute of limitation as a defense against the payment of taxes due from him or her, and to avoid the filing of a multiplicity of suits by the municipal authorities against delinquent tax payers in order to prevent the bar of limitation being set up them, therefore an emergency exists and an imperative public necessity requiring the suspension of the constitutional rule requiring all bills to be read on three several days, and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved October 9, 1895.

FURTHER APPROPRIATION FOR SUPPORT OF THE STATE GOVERNMENT.

CHAP. 4.—[S. B. No. 6.] An act making further appropriation for the support of the State government for the years beginning March 1, 1895, to February 28, 1897.

Whereas, in the enrollment of an act entitled "An Act making appropriation for the support of the State government for the years beginning March 1, 1895, to February 28, 1897, and for other purposes," approved May 3, 1895, the following clerical errors were committed, whereby the

items under the head of public printing of \$2100.00 for each year should have been \$21,000.00 for each year, and under the head of Deaf and Dumb Asylum the item of "expert shoemaker, expert binder and teacher" of \$720.00 for each year should have been \$1440.00 for each year; now therefore,

Section 1. Be it enacted by the Legislature of the State of Texas: That the following sums of money, or so much thereof as may be necessary, are hereby appropriated out of any money in the Treasury not otherwise appropriated, for the following purposes, in addition to the sums of money already appropriated in the above entitled act: For first, second and third classes of public printing and binding, and for printing papers for first and second classes of public printing, eighteen thousand nine hundred dollars for the year ending February 28, 1896, and eighteen thousand nine hundred dollars for the year ending February 28, 1897. For salary of expert shoemaker, expert binder and teacher, the sum of seven hundred and twenty dollars for the year ending February 28, 1896, and seven hundred and twenty dollars for the year ending February 28, 1897.

Sec. 2. That the sum of \$100.00 to pay expenses of building booths and guard rails to carry out the Australian ballot system be taken from the appropriation for the year 1897 and transferred to the year 1896.

Sec. 3. The fact that the amounts of money appropriated by this act are needed by the State at the present time, creates an imperative public necessity and emergency requiring the suspension of the constitutional rule requiring bills to be read on three several days, and that this law should take effect and be in force from and after its passage, and it is hereby so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on the fifth day of October, A. D. 1895, but was not signed by him nor returned to the house in which it originated, with his objections thereto, within the time prescribed by the Constitution, and thereupon became a law without his signature.—Allison Mayfield, Secretary of State.]

THE STATE OF TEXAS,
Department of State.

I, Allison Mayfield, Secretary of State of the State of Texas, certify that the foregoing laws, passed at the first called session of the Twenty-fourth Legislature, have been carefully examined and compared with the original enrolled bills, now on file in this department, and are true copies of said originals.

I further certify that the first called session of the Twenty-fourth Legislature convened in the city of Austin October 1, A. D. 1895, and adjourned October 7, A. D. 1895.

In testimony whereof, I have subscribed my name and have [Seal] hereto affixed the seal of the State of Texas, in the city of Austin, this November 7, A. D. 1895.

ALLISON MAYFIELD,
Secretary of State.

GENERAL LAWS
OF
THE STATE OF TEXAS

PASSED AT THE
REGULAR SESSION OF THE TWENTY-FIFTH LEGISLATURE

CONVENED
AT THE CITY OF AUSTIN

JANUARY 12, 1897, AND ADJOURNED MAY 21, 1897.



AUSTIN
1897

GENERAL LAWS OF TEXAS.

TWENTY-FIFTH LEGISLATURE, 1897.

S. B. No. 11.]

CHAPTER 1.

An act appropriating one hundred and ten thousand dollars to pay members' mileage and per diem, and officers' and employees' per diem, of the Twenty-fifth Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas: That the sum of one hundred and ten thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of the money in the treasury, not otherwise appropriated, for the payment of mileage and per diem pay of members and per diem pay of officers and employees of the Twenty-fifth Legislature.

Sec. 2. The certificate of the Secretary of the Senate, approved by the President thereof, or of the Chief Clerk of the House, approved by the Speaker thereof, shall be sufficient evidence to the Comptroller, upon which he shall audit the claims and issue his warrants upon the Treasurer for the respective amounts.

Sec. 3. And, whereas, the Twenty-fifth Legislature is now in session, and public policy requires their payment; therefore, an imperative public necessity exists that the constitutional rule requiring bills to be read on three several days be suspended, and it is so suspended, and this act shall take effect from and after its passage.

Approved, January 18, 1897.

[Note.—The foregoing act passed the Senate by a two-thirds vote, yeas 25, nays none; and passed the House by a two-thirds vote, yeas 116, nays none.]

S. B. No. 12.]

CHAPTER 2.

An act making appropriation to defray the contingent expenses of the Twenty-fifth Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas: That the sum of twenty thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of any money in the treasury not otherwise appropriated, to pay the contingent expenses of the Twenty-fifth Legislature; that, except in cases of accounts for printing done and stationery furnished, the certificate of the Chairman of the Committee on Contingent Expenses that an account has been examined and approved by said Committee, and countersigned by the President of the Senate, or

Speaker of the House, as the case may be, shall be sufficient authority to authorize and require the Comptroller of Public Accounts to draw his warrant on the State Treasurer for the payment of any claims against said fund. The accounts for printing and stationery shall take the course prescribed by the Revised Statutes.

Sec. 2. That the fact that it is important that the expenses of the Legislature be promptly paid, creates an emergency and a public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and this act shall take effect from its passage. It is so enacted.

Approved, January 26, 1897.

[Note.—The foregoing act passed the Senate by a two-thirds vote, yeas 24, nays none; and passed the House by a two-thirds vote, yeas 105, nays 3.]

H. B. No. 104.]

CHAPTER 3.

An act to be entitled an act to amend Article 5043k, of the Revised Statutes of 1895, relating to the Live Stock Sanitary Commission, and the movement of live stock thereunder.

Section 1. Be it enacted by the Legislature of the State of Texas: That Article 5043k be and the same is amended so as hereafter to read as follows:

Any quarantine line that may be fixed by the Live Stock Sanitary Commission against Texas, or splenic fever, shall be so fixed as to conform to the federal quarantine line established, or that may be established, by the United States Department of Agriculture.

Sec. 2. The fact that there is serious question of the power of the Live Stock Sanitary Commission to establish a quarantine line in conformity with the line established by the United States Department of Agriculture, and unless such line is established the entire State may be quarantined by the United States authorities, and incalculable injury done to the cattle interests of Texas, creates an imperative public necessity and an emergency exists that the constitutional rule requiring all bills to be read on three several days be suspended, and that this bill be put on its third reading and final passage, and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved, January 28, 1897.

[Note.—The foregoing act passed the House by a two-thirds vote, yeas 111, nays 1; and passed the Senate by a two-thirds vote, yeas 21, nays none.]

H. B. No. 3.]

CHAPTER 4.

An act making an appropriation to pay mileage and per diem of the Presidential Electors of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas: That the sum of fifteen hundred dollars, or so much thereof as may be necessary, is hereby appropriated out of any money in the treasury not otherwise appropriated, to pay the mileage and per diem of the Presidential Electors. That the certificate of the Secretary of the College, stating the number of days that the College was in session, shall be sufficient authority to the Comptroller to draw his warrant upon the Treasurer for the amount due each elector.

Sec. 2. Whereas, the Electoral College has already met, public policy demands that they should be paid, an emergency exists and necessity demands that the constitutional rule requiring the bill to be read on three several days be suspended and that this act take effect from its passage. It is so enacted.

Approved, February 3, 1897.

[Note.—The foregoing act passed the House by a two-thirds vote, yeas 111, nays 1; and passed the Senate by a two-thirds vote, yeas 26, nays none.]

H. B. No. 38.]

CHAPTER 5.

An act to amend Article 887, of Title 10, of the Code of Criminal Procedure of the State of Texas, prescribing the form of a recognizance in appeals of cases of misdemeanor, and to repeal all laws and parts of laws in conflict herewith.

Section 1. Be it enacted by the Legislature of the State of Texas: That Article 887, of Title 10, of the Code of Criminal Procedure of the State of Texas, prescribing the form of a recognizance in appeals of cases of misdemeanor, be and the same is hereby amended so as to read hereafter as follows, to-wit:

Article 887. In appeal cases of misdemeanor, the following form of recognizance shall be sufficient, and when complied with shall confer jurisdiction upon the Court of Criminal Appeals, of such appeals:

State of Texas,	}	No.
vs.		
A.....B.		

This day came into open court A.....B., defendant in the above entitled cause, who, together with C.....D., and E.....F., his sureties, acknowledge themselves severally indebted to the State of Texas in the penal sum of dollars; conditioned, that the said A.....B., who has been convicted in this cause of a misdemeanor, and his punishment assessed at, as more fully appears by the judgment of conviction duly entered in this cause, shall appear before this court from day to day and from term to term of the same, and not

depart without leave of this court, in order to abide the judgment of the Court of Criminal Appeals of the State of Texas in this case.

The amount of such recognizance shall be fixed by the court in which the judgment was rendered, and the sufficiency of the security thereon shall be tested, and the same proceedings had, in case of forfeiture, as in other cases of recognizance.

Sec. 2. That all laws and parts of laws in conflict herewith be and the same are hereby repealed.

Approved, February 9, 1897.

Takes effect 90 days after adjournment.

S. B. No. 57]

CHAPTER 6.

An act making an appropriation to pay for publishing the constitutional amendments proposed by the Twenty-fourth Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas: That the sum of five thousand dollars, or as much thereof as may be necessary, be and the same is hereby appropriated out of any moneys in the treasury not otherwise appropriated, to pay for publishing the constitutional amendments voted on at the last general election, and for publishing the Governor's proclamation calling the last general election.

Sec. 2. Whereas, the Secretary of State did have the constitutional amendments proposed by the Twenty-fourth Legislature published, as required by law, and there being no appropriation to pay for the same, and public policy requires the immediate payment to the parties entitled to receive the same; therefore, an emergency exists that the constitutional rule requiring bills to be read on three several days in each house be suspended and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved, February 15, 1897.

[Note.—The foregoing act passed the Senate by a two-thirds vote, yeas 25, nays none; and passed the House by a two-thirds vote, yeas 109, nays none.]

S. B. No. 18.]

CHAPTER 7.

An act to amend Article 386c, Chapter 1, Title 18, of the Revised Civil Statutes of Texas, relating to cities and towns.

Section 1. Be it enacted by the Legislature of the State of Texas: That Article 386c, Chapter 1, Title 18, of the Revised Statutes, be amended so as hereafter to read as follows:

Article 386c. That all cities and towns in this State whose corporation may be defective by reason of the failure of such cities and towns to restrict their territorial limits within the time and in the manner required by law, but which have in fact restricted their limits and have re-

corded the lines of such restricted limits in the minute book of such city and town and in the record book of deeds in the county in which such city or town is situated, and the boundaries of which as now recognized by the ordinances of such cities or towns and as fixed by the lines so recorded do not include more territory than provided for in article 386a, be and such incorporations are hereby in all things validated, the same as if such territorial limits had been duly fixed and restricted within the time and in the manner required by law.

Sec. 2. Whereas, there are many cities and towns in Texas which have heretofore restricted their limits so as not to include more territory than allowed by law, but failed to do so within the time and in the manner required by law; and whereas, the corporate existence of many of such cities and towns is threatened by legal proceedings whereby the public interest would be greatly injured, therefore an emergency and imperative public necessity exists for the suspension of the constitutional rule requiring bills to be read on three several days in each house, and the same is hereby suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act passed the Senate by a two-thirds vote, yeas 24, nays none; and passed the House by a two-thirds vote, yeas 97, nays none.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval on Tuesday, the ninth day of February, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Mad-den, Secretary of State.]

H. B. No. 10]

CHAPTER 8.

An act to be entitled an act to amend Chapter 1, Title 29, of the Revised Civil Statutes of the State of Texas, adopted at the regular session of the Twenty-fourth Legislature, and to add to said chapter two articles, numbered 1132b and 1132c. respectively, "Providing for the election and qualification of special county judges in case of the absence of the regular county judge or of his inability or refusal to hold court; and providing further, for the election of a judge when said special judge is absent or is unable or refuses to act."

Section 1. Be it enacted by the Legislature of the State of Texas: That Chapter 1, Title 29, of the Revised Civil Statutes of the State of Texas, adopted at the regular session of the Twenty-fourth Legislature, be amended by adding to said chapter, two articles, immediately after Article 1132a, and numbered 1132b and 1132c, as follows:

Article 1132b. Should any county judge fail to appear at the time appointed for holding the court, or should he during the term be absent, or unable or unwilling to hold the court, a special county judge may be elected in the same manner as is provided for the election of a special judge of the District Court, in Articles 1071 to 1074 inclusive, so far as applicable, and the special county judge so elected shall have all the power and authority of the county judge while in the trial and disposi-

tion of all the cases pending in said court during the absence, inability, or such refusal of the county judge elected. And similar elections may be held from time to time during the term to supply the absence, failure or inability of the county judge, or any special judge to perform the duties of the office.

Article 1132c. When a special county judge shall have been so elected, it shall be the duty of the clerk to enter upon the minutes of the court, a record such as is provided for the District Court in Article 1075, and such record shall have the same force and effect provided for the record of the District Court in similar cases in article 1076.

Sec. 2. The fact that there is now no law in this State providing for the election or appointment of a special county judge to act in case of the sickness or other inability of the county judge to hold or carry on the terms of the County Court, causes great inconvenience and delays in the administration of justice, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days should be suspended, and an emergency exists that this act take effect from and after its passage, and it is so enacted.

Approved, February 25, 1897.

[Note.—The foregoing act passed the House by a two-thirds vote, yeas 106, nays 9; and passed the Senate by a two-thirds vote, yeas 25, nays none.]

H. B. No. 62.]

CHAPTER 9.

An act for the relief of railway corporations, and belt and suburban railway companies, having charters granted or amended since the first day of January, 1887, and which have failed, or are about to fail, to construct their roads and branches, or any part thereof, within the time required by law.

Section 1. Be it enacted by the Legislature of the State of Texas: That the time within which any railroad corporation, chartered under the laws of the State of Texas, since the first day of January, 1887, or the charter of which has been amended since that date, is required to begin the construction of its road, and construct, equip, and put in good running order, as provided in Article 4558 of the Revised Statutes of the State of Texas, shall be, and the same hereby is, as to any unfinished portion of such road, extended two years from the taking effect of this act; and any railway company having been chartered since January first, 1887, or the charter to which has been amended since said date, which shall have forfeited its corporate existence or any of its rights and powers, or is about to do so, by reason of failure to comply with said Article 4558, or any part of said article, shall have restored and preserved to its corporate existence, and it shall have and enjoy all of the corporate franchises, property, rights and power held or required by it previous to any cause of forfeiture on account of such failure as aforesaid; provided, that no railroad company which shall be revived or the time extended by virtue of this act shall claim or exercise any right or franchise not allowed, granted or permitted to other railway corporations under the laws as now in force in this State, and such railroad company as may be

revived or time extended by this act shall comply with the laws of this State now in force appertaining to railway corporations, and the provisions of this act shall extend to and embrace suburban and belt railroads heretofore chartered under the laws of this State.

Sec. 2. Any railway corporation chartered since the first day of January, A. D. 1887, and which by its original charter, or by amendment thereto filed since said first day of January, A. D. 1887, has provided for the locating, constructing, maintaining, owning and operating of any extension or branch line or lines of railway, and which has failed or is about to fail to complete the same or any part thereof within the time required by law, shall, upon the payment of all its franchise taxes, be, and is hereby restored to and granted all and singular the rights, privileges and franchises acquired by such original charter, or by such amendment to its articles of incorporation as if the same were filed and recorded in the office of the Secretary of State on the day of the taking effect of this act, and such corporation shall, upon the payment of its franchise taxes, be, and is hereby authorized to project, complete, construct, own and operate any such extensions and branch line or lines of railway under and as provided for in its charter, or in any such amendment to its articles of incorporation; provided, that said extensions and branch lines of railway shall be by such corporation completed and put in running order at the rate of at least ten miles within one year from the taking effect of this act, and twenty additional miles for each and every year thereafter until all of said extensions or branch line or lines so provided for are completed.

Sec. 3. The fact that no good can result to the State from the forfeitures provided against in this act, and that the public interest and convenience will be promoted, and citizens in many parts of the State having invested in railway enterprises saved from great loss, unless the relief herein provided for be granted, creates an emergency and an imperative public necessity authorizing the suspension of the constitutional rule requiring bills to be read on three several days, and it is so suspended, and demanding that this act take effect and be in force from and after its passage, and it is so enacted.

Approved, February 25, 1897.

[Note.—The foregoing act passed the House by a two-thirds vote, yeas 99, nays 5; and passed the Senate by a two-thirds vote, yeas 24, nays 2.]

S. H. B. No. 103.]

CHAPTER 10.

An act to amend Subdivision 18, of Article 22, of the Revised Civil Statutes of Texas, fixing the time for holding courts in the Eighteenth Judicial District.

Section 1. Be it enacted by the Legislature of the State of Texas: That Subdivision 18 of Article 22 of the Revised Civil Statutes of the State of Texas be so amended as hereafter to read as follows:

18. The Eighteenth Judicial District shall be composed of the counties of Johnson, Hill and Bosque, and the district courts therein shall be held as follows:

In the county of Bosque, on the third Monday in January and August, and may continue in session six weeks.

In the county of Hill, on the sixth Monday after the third Monday in January, and may continue in session eight weeks, and on the sixth Monday after the third Monday in August, and may continue in session seven weeks.

In the county of Johnson, on the fourteenth Monday after the third Monday in January, and on the thirteenth Monday after the third Monday in August, and may continue in session until the business is disposed of; provided, that said continuation shall not interfere with the terms of the court in the remaining counties of the district as herein above provided for.

Sec. 2. The crowded condition of the District Court dockets of Hill County, and the fact that the next term of the District Court for Hill County will begin on the first Monday in March, 1897, creates an imperative public necessity which authorizes the suspension of the constitutional rule requiring bills to be read on three several days, and said rule is hereby suspended, and the same facts create an emergency requiring that this act take effect from and after its passage, and it is so enacted.

Approved, February 25, 1897.

[Note.—The foregoing act passed the House by a two-thirds vote, yeas 93, nays none; and passed the Senate by a two-thirds vote, yeas 25, nays none.]

S. B. No. 66.]

CHAPTER 11.

An act to provide for single election polls in cities and towns not having more than four hundred electors, and to repeal all laws and parts of laws in conflict therewith.

Section 1. Be it enacted by the Legislature of the State of Texas: That in all cities and towns in this State in which the number of electors at the last municipal election does not exceed four hundred in number, but one election poll shall be opened at any municipal election, and all officers of such towns and cities to be elected shall be voted for at such poll.

Sec. 2. That all laws and parts of laws in conflict with the foregoing section be and the same are hereby repealed.

Sec. 3. The fact that many cities and towns in this State will soon hold elections for municipal offices creates an emergency and imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved, March 3, 1897.

[Note.—The foregoing act passed the Senate by a two-thirds vote, yeas 23, nays none; and passed the House by a two-thirds vote, yeas 90, nays none.]

H. B. No. 30.]

CHAPTER 12.

An act to be entitled an act to amend Article 904, of Title 10, of the Code of Criminal Procedure of the State of Texas, relating to appeal and writ of error, and to repeal all laws in conflict herewith.

Section 1. Be it enacted by the Legislature of the State of Texas: That Article 904 of Title 10 of the Code of Criminal Procedure of the State of Texas be and the same is hereby amended so as to read hereafter as follows, to-wit:

Article 904. The Court of Criminal Appeals may affirm the judgment of the court below or may reverse and remand for a new trial, or may reverse and dismiss the case, or may reform and correct the judgment, as the law and the nature of the case may require, but in all cases the court shall presume that the venue was proven in the court below; that the jury was properly empaneled and sworn; that the defendant was arraigned; that he pleaded to the indictment; that the charge of the court was certified by the judge and filed by the clerk of the court before it was read to the jury, unless such matters were made an issue in the court below, and it affirmatively appears to the contrary by a bill of exceptions properly signed and allowed by the judge of the court below or proven up by by-standers, as is now provided by law, and incorporated in the transcript as required by law. In all criminal cases by it decided, the Court of Criminal Appeals shall deliver a written opinion setting forth the reason for such decision.

Sec. 2. That all laws and parts of laws in conflict with this act be and the same are hereby repealed.

Sec. 3. The fact that the Court of Criminal Appeals is now in session, and many criminal cases now pending will be reversed, because there is no law in force authorizing said court to presume the regularity of the proceedings of the District and County Courts, creates an imperative public necessity and emergency that the rule requiring bills to be read on three several days, should be suspended, and it is hereby so enacted.

Approved, March 3, 1897.

[Note.—The foregoing act passed the House January 25, 1897, but the endorsement thereon does not show whether or not it passed by a two-thirds vote. Said act passed the Senate by a two-thirds vote, yeas 21, nays 2.]

S. H. B. No. 17.]

CHAPTER 13.

An act to be entitled An act to amend Title XCVI, Chapter 3, of the Revised Civil Statutes (1895) of the State of Texas, by adding thereto, after Article 4640, an article to be known as Article 4640a, prohibiting the admission to record of instruments in any other than the English language, except instruments executed prior to the taking effect of this act, which may be recorded if accompanied by sworn translations thereof.

Section 1. Be it enacted by the Legislature of the State of Texas: That Title XCVI, Chapter 3, of the Revised Civil Statutes (1895) of the State

of Texas, be amended by adding thereto after Article 4640, an article to be known as Article 4640a, as follows:

Article 4640a. No deed, conveyance, or other instrument, whether relating to real or personal property, if in any other than the English language, shall be admitted to record; provided, that all such instruments executed prior to the taking effect of this act may be filed and recorded if accompanied by a correct translation thereof, the accuracy of which is sworn to before some officer authorized to administer oaths. Such translations shall be recorded with the original, and if correct shall operate as constructive notice from and after the date of its filing, if the original be authenticated in the manner required by law.

Approved, March 3, 1897.

Takes effect 90 days after adjournment.

S. B. No. 6.]

CHAPTER 14.

An act to prescribe the time when suits for personal injuries, and for injuries resulting in death, shall be instituted; and to fix the period of limitation in such actions.

Section 1. Be it enacted by the Legislature of the State of Texas: There shall be commenced and prosecuted within two years after the cause of action shall have accrued, and not afterwards, all actions, or suits in courts of the following description:

(1) Actions for injuries done to the person of another.

(2) Actions for injuries done to the person of another where death ensued from such injuries; and the cause of action shall be considered as having accrued at the death of the party injured.

Approved, March 4, 1897.

Takes effect 90 days after adjournment.

S. B. No. 43.]

CHAPTER 15.

An act to amend Article 672, Title VIII, Chapter 3, of the Code of Criminal Procedure of the Revised Statutes of the State of Texas of 1895, relating to peremptory challenges in capital cases.

Section 1. Be it enacted by the Legislature of the State of Texas: That Article 672, as described in the caption of this act, shall read as follows, to-wit:

Article 672. In capital cases both the State and defendant shall be entitled to fifteen (15) peremptory challenges, and where there are more defendants than one tried together, the State shall be entitled to eight (8) peremptory challenges for each of said defendants, and each defendant shall be entitled to eight (8) peremptory challenges.

Approved March 4, 1897.

Takes effect 90 days after adjournment.

S. B. No. 67.]

CHAPTER 16.

An act to amend Article 689, Chapter IV, Title 8, of the Code of Criminal Procedure of the State of Texas, relating to the number of peremptory challenges to jurors allowed to the state and defendant in felony cases not capital.

Section 1. Be it enacted by the Legislature of the State of Texas: That Article 689, Chapter IV, Title 8, of the Code of Criminal Procedure of the State of Texas, be so amend as hereafter to read as follows:

Article 689. In prosecutions for felonies not capital, the defendant and State shall each be entitled to ten peremptory challenges, and where more defendants than one are tried together each defendant shall be entitled to five peremptory challenges, and the State to five for each defendant.

Approved, March 4, 1897.

Takes effect 90 days after adjournment.

H. B. No. 434.]

CHAPTER 17.

An act to validate and confirm an ordinance passed by the City Council of the city of Galveston, ceding to the United States of America certain streets intersecting land purchased, and to be purchased, by the United States of America, for the purpose of erecting fortifications thereon, and to authorize the Commissioners Court of Galveston County to cede to the United States of America such portions of public highways in Galveston County for the purpose of establishing fortifications situated outside the limits of the city of Galveston.

Section 1. Be it enacted by the Legislature of the State of Texas: That whereas, the City Council of the city of Galveston, on the tenth day of February, A. D. 1897, passed an ordinance ceding to the United States of America any and all streets, alleys, or other public highways which intersect or separate any lots or parcels of land which the United States of America may desire to purchase for the purpose of establishing fortifications for the protection of the city of Galveston and the coast of Texas against the enemies of the United States of America; and whereas, it is doubtful if the said City Council of the city of Galveston was vested with power, under its charter, to make such cession of said portion of said streets, now, therefore, be it enacted that said act of the City Council of the city of Galveston in making such cession be, and the same is hereby, in all things ratified and confirmed, and the United States of America is hereby vested with all the rights, privileges and powers conferred or attempted to be conferred by said ordinance of the City Council of the city of Galveston.

Sec. 2. That the Commissioners Court of Galveston County is hereby authorized and empowered to cede to the United States of America any and all streets, alleys, roads or public highways in the County of Galveston which may pass through, separate or bound any tract or parcel of land which the United States of America may acquire for public purposes not situated within the limits of the city of Galveston: Provided,

that any act of cession of such public highways shall be evidenced by a decree duly entered in the records of the Commissioners Court of Galveston County, Texas, and a certified copy of such decree duly recorded in the records of deeds of Galveston County shall convey to the United States of America for public purposes, all right, title and interest which said County of Galveston has or may have in and to such public highways, and shall be full authority to the United States of America to close said public highways to the public use: Provided, however, that nothing in this act shall prevent, or is intended to prevent, the United States of America from condemning any lands as it is now authorized by law to do, the object and intention of this section being to permit the United States of America to acquire the title and use of such streets, alleys, and public highways which may have been dedicated to public use by virtue of maps recorded, showing a subdivision of large tracts of land into city lots and blocks, streets and alleys, and which lands are not embraced within the limits of any incorporated city or town.

Sec. 3. The fact that the United States of America has, at an expense of nearly six millions of dollars, constructed jetties in Galveston harbor, thus creating a deep water port on the coast of Texas, which improvements, as well as the city of Galveston, are without any protection against foreign enemies, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act passed the House by a two-thirds vote yeas 97, nays none; and passed the Senate by a two-thirds vote, yeas 25, nays]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Tuesday, the twenty-third day of February, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

S. B. No. 52.]

CHAPTER 18.

An act to require every express company to keep a general office in this State, and to furnish such information in relation to its property, indebtedness and business, as may be required by the Railroad Commission of Texas, and to provide a penalty for violation of such requirements.

Section 1. Be it enacted by the Legislature of the State of Texas: That every incorporated express company shall keep a general office in this State at some place on the line of its transportation, in which it shall keep its books, accounts, and contracts, relating to express business, or copies thereof, embracing all books, papers, and contracts, or copies thereof, showing the value of its property, of all kinds, and the amount of all its receipts and disbursements on account of the express business done in this State. That the books, papers, and contracts, required to be kept in said general office, shall at all times be subject to inspection

and examination by the officers of the State of Texas, and by any member or members of the Railroad Commission of Texas, or by its authorized agent, officer, or employee.

A failure to comply with any of the foregoing provisions of this Section shall subject the offending company, and any officer, agent, or employee, of such company, so offending to a penalty of not less than one hundred, nor more than five hundred dollars. And that a failure to comply with the foregoing provision shall subject the company so offending to forfeit its charter and privileges of doing business as an express company in this State.

The Railroad Commission of Texas shall report to the Attorney-General of the State the name of any company, and the officers, agents, or employees, thereof, violating any of the provisions of this act, and any suits to recover the penalties herein prescribed, or to forfeit the charter of such express company, doing business in this State, shall be instituted and prosecuted in a court having jurisdiction, in the County of Travis, in the State of Texas, by the Attorney-General of the State.

Sec. 2. Any incorporated express company with its principal office in another State, and doing business as such express company in this State, is hereby required to provide and keep in its general office in this State, a copy of its charter, and to make full annual statements of the value of all its property, including a like statement of all its indebtedness, and of all its annual receipts and expenditures as such express company, to the Railroad Commission of Texas, at such time or times as may be prescribed by it; which statement shall be certified to be correct, and shall be sworn to by the President and Secretary, or General Manager in Texas, of such company; and such company shall permit any member or members of the Railroad Commission of Texas, or its authorized agent, to freely examine any and all books, papers, and contracts, in said office; and should any such company, or any person in charge of said office, refuse to permit such examination, this shall be sufficient ground for the withdrawal, by this State, of its privilege of doing business as such express company in this State; and it shall be the duty of the Attorney-General of the State to institute and conduct suits for that purpose in a court having jurisdiction in Travis county, in the State of Texas.

Sec. 3. Every express company, doing business as such in this State, shall, within 90 days after the passage of this act, establish the general office provided for in this act, at some point on their line of transportation in this State, and shall immediately give notice in writing to the Railroad Commission of Texas, of the place at which such general office is located, and shall, at the same time, give notice in writing to said Commission of the name and official designation of the person or persons, officer or officers, charged with the management of such general office, and shall, from time to time, give like notices in writing of any change of location of such general office, or of the person or persons, officer or officers, charged with the management.

A failure to comply with any of the provisions of this section, shall be sufficient cause for withdrawing from such express company, the privilege of doing business as such, in this State.

Approved, March 11, 1897.

Takes effect 90 days after adjournment.

H. B. No. 110.]

CHAPTER 19.

An act to amend Articles 2526, 2531, and 2532, of Title 49, of the Revised Civil Statutes of the State of Texas, relating to forcible entry and detainer.

Section 1. Be it enacted by the Legislature of the State of Texas: That Articles 2526, 2531, and 2532, of Title 49, of the Revised Civil Statutes of the State of Texas, be so amended as hereafter to read as follows:

Article 2526. Either party to the suit shall have the right of trial by jury by making demand for a jury to the Justice of the Peace on or before the day for which the case is set for trial and paying the jury fee of three (\$3.00) dollars, and when a jury is demanded the Justice of the Peace shall issue a precept to the sheriff or any constable of the county, commanding him to summon a jury of six men, qualified jurors of the county, to appear before him on the day set for trying the complaint, to serve as jurors, and shall be returned with the name of the jurors thereon to the said Justice of the Peace on the day assigned for trial.

If no jury be demanded the case shall be tried by the Justice of the Peace without a jury.

Article 2531. On the day named in the citation for trial, or on the day to which the case may be postponed, according to the provisions of the preceding article, if no jury is demanded, the Justice of the Peace shall hear the evidence and render his judgment of guilty or not guilty of the charge as stated in the complaint, and if a jury is demanded by either party, the jury shall be empanelled and sworn as in other cases, and after hearing the evidence they shall return their verdict of guilty or not guilty of the charge as stated in the complaint.

Article 2532. If the Justice of the Peace, if no jury is demanded, or the jury, in case one is demanded, find the defendant guilty, the said Justice of the Peace shall give judgment thereon for the plaintiff to have restitution of the premises and for costs; and he shall award his writ of restitution and may issue execution for the costs, but should the defendant be found not guilty, judgment shall be given in favor of the defendant and against the plaintiff for all costs, and execution may issue therefor.

Sec. 2. The fact that as the law now is, relating to trials in cases of forcible entry and detainer, requires a jury in every case, entails a useless expense to litigants in many cases, and the crowded condition of the calendar, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved, March 12, 1897.

Takes effect 90 days after adjournment.

S. B. No. 82.]

CHAPTER 20.

An act to amend Article 256 of the Revised Civil Statutes of Texas, relating to applications for license to practice law.

Section 1. Be it enacted by the Legislature of the State of Texas: That Article 256, of the Revised Civil Statutes of Texas, relating to the application for license to practice law, shall be amended so as to hereafter read as follows:

Article 256. During the term of any District Court, upon application of any person desiring to obtain a permanent license to practice as attorney and counsellor at law, in the courts of the State, accompanied with a certificate from the County Commissioners Court of the character specified in the preceding article, the Court shall, as soon as convenient, appoint a committee of three or more practicing attorneys of good standing, and set a day for examination of the applicant, on which day, the committee so appointed shall, in open court, proceed to examine the applicant, and if they, or a majority of them, and the Court, are satisfied of his legal qualifications, a report of that fact shall, within five days, be made by the committee and recorded by the clerk, and thereon, the Court shall order the clerk to make out a license for the applicant, which shall be signed by the Court, and tested by the clerk under seal of the Court; under which, when delivered, the party shall be authorized to practice in any District, County, or inferior court, of the State.

Approved March 12, 1897.

Takes effect 90 days after adjournment.

S. B. No. 36.]

CHAPTER 21.

An act to amend Article 723, Title VIII, Chapter 5, of the Code of Criminal Procedure of the State of Texas, relating to the reversal of cases by the Court of Criminal Appeals.

Section 1. Be it enacted by the Legislature of the State of Texas: That Article 723, as described in the caption of this act, shall read as follows, viz.:

Article 723. Whenever it appears by the record in any criminal action, upon appeal of the defendant, that any of the requirements of the eight preceding articles have been disregarded, the judgment shall not be reversed unless the error appearing from the record was calculated to injure the rights of the defendant, which error shall be excepted to at the time of the trial, or on a motion for a new trial.

Approved, March 12, 1897.

Takes effect 90 days after adjournment.

S. B. No. 94.]

CHAPTER 22.

An act to amend Article 1036, Chapter 20, Title XXVII, of the Revised Civil Statutes of the State of Texas, relating to payment of costs and returning mandates in the Courts of Civil Appeals.

Section 1. Be it enacted by the Legislature of the State of Texas: That Article 1036, Chapter 20, Title XXVII, of the Revised Civil Statutes of Texas, be amended so as to hereafter read as follows:

Article 1036. On the rendition of any final judgment or decree in the Court of Civil Appeals, the Clerk of said court shall not issue and deliver the mandate of the Court, nor certify the proceedings of the lower court, until all the costs accruing in the case, in the Court of Civil Appeals, shall have been paid. If neither party shall pay the costs and take out the mandate within thirty days after the time when the same can be issued by law, then it shall be the duty of the Clerk to issue execution for the costs accruing in his court, against whom such costs have been adjudged, and to send such execution by mail to the proper officer for collection, but he shall retain the mandate until the costs have been paid or collected; provided, that if the party against whom the said costs are adjudged shall make affidavit of his inability to pay the same, or give security therefor, he may apply to the Court of Civil Appeals in which said case is pending, for an order to require the Clerk to issue said mandate, or to certify said proceedings, as the case may be, which motion shall be granted by said court, unless the Clerk of the Court of Civil Appeals, or any party to the record, shall controvert the truth of such affidavit and satisfy the court that such motion should not be granted.

Sec. 2. The fact that the operation of the present law works a hardship upon many deserving but destitute litigants, and that many mandates are now held in the Court of Civil Appeals owing to the pecuniary distress and inability of the parties whose duty it is to pay for them, and in order to make effective the principle that pervades our system of law, that all the courts shall be open to litigants for the redress of grievances, to the poor, as well as to the rich, creates an emergency, and a public necessity exists that the constitutional rule requiring bills to be read on three several days be suspended and that this bill be in force and take effect from and after its passage, and it is so enacted.

Approved, March 12, 1897.

[Note.—The foregoing act passed the Senate by a two-thirds vote, yeas 21, nays none; and passed the House by a two-thirds vote, yeas 91, nays none.]

S. B. No. 206.]

CHAPTER 23.

An act to amend Article Seven Hundred and Twenty-two (722), of Chapter Fourteen (14), of Title Twenty-one (21), of the Revised Statutes of the State of Texas, as adopted by the Twenty-fourth Legislature of the State of Texas, in the year Eighteen Hundred and Ninety-five (1895), relating to channel and dock operations.

Section 1. Be it enacted by the Legislature of the State of Texas: That Article 722, of Chapter 14, of Title 21, of the Revised Statutes of the State of Texas, be so amended as to hereafter read as follows:

Article 722. Every such channel corporation shall, in addition to the powers herein conferred, have power:

1. To cause such examination and survey for its proposed channel to be made as may be necessary to the selection of the most advantageous route for such purpose by its officers, agents or servants to enter upon any of the waters of such bays and upon any of the lands of this State, or of any person.

2. To take and hold such voluntary grant of real estate and other property as shall be made to it to aid in the construction and maintenance of its deep water channel and works pertinent thereto.

3. To construct its channel across, along, through, or upon, any of the waters of the bays within the jurisdiction of this State, and so far into the mainland as may be necessary to reach a place for its docks that will afford security from cyclones, storms, swells, and tidal waves, with such depth as may suit its convenience and the wants of navigation, not less than five feet, and a width of not less than forty feet.

4. To furnish to vessels and boats adapted to the purpose facilities for navigating in and along the entire length of its channel, and to charge and collect a toll therefor, to be prescribed and established by its by-laws, not to exceed one cent per barrel bulk of the capacity of each vessel for each mile of the length of its channel used by the vessel going either way.

5. To borrow such sums of money as may be necessary for constructing, finishing, or operating its channel, and to issue and dispose of its bonds for any amount so borrowed, and to mortgage its corporate property and franchises to secure the payment of any debt contracted for the purposes aforesaid; provided, that damages for any property appropriated by such corporation shall be assessed and paid for as is provided for in case of railroads.

6. To enter upon and condemn and appropriate any lands of any persons or corporation that may be necessary for the uses and purposes of such channel corporation, the damages for any property thus appropriated to be assessed and paid for in the same manner as provided by law in the case of railroads; provided, that no damages shall be assessed against or paid by it for any portion of the route of the channel embraced within and covered by the waters of any bay or lake on the coast of this State, nor for any portion of any island belonging to the State that may be requisite and necessary to the construction and successful operation of its channel; and provided, further, that its right of way shall not be less than the actual width of its channel, and not more than seven hundred feet in width on each side of its channel; provided, that

when the land sought to be condemned under this chapter is arable land, such right of way shall not extend further than six hundred feet on each side of the channel from the edge or boundary of said channel.

7. To construct, own, and operate its channel so far into the waters of the Gulf of Mexico as may be necessary to obtain an adequate depth of water at its gulf entrance to facilitate the ingress and egress of such vessels as may navigate the same in so far as this State may have the power to grant such right, which shall be in subordination to that of the government of the United States in so far as that government has the constitutional power to control the same.

Sec. 2. Whereas, there are now contracts let to build a large ship channel across the bay of Sabine Lake, and in the present condition of the law there is not right-of-way enough given to dump or pile the dirt taken from the bed of the channel, and in consequence the work on the building of said channel is stopped; and, whereas, the crowded condition of the calendar renders it necessary and creates an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and this bill shall take effect on and from its passage, and it is so enacted.

[Note.—The foregoing act passed the Senate by a two-thirds vote, yeas 26, nays none; and passed the House by a two-thirds vote, yeas 98, nays none.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval on Monday, the first day of March, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

H. B. No. 268.]

CHAPTER 24.

An act to create a more efficient road system for Travis County, in the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas: That each member of the Commissioners' Court of Travis County shall be ex officio road commissioner of their respective districts, and under the direction of the Commissioners' Court, shall have charge of all the teams, tools and machinery belonging to the county, and placed in their hands by the said court, and it shall be their duty, under such rules and regulations as the Commissioners' Court may prescribe, to superintend the laying out of new roads, the making or changing of roads, and the building of bridges.

Each of said commissioners shall, before entering upon the duties of their office, execute a bond of one thousand dollars, with two or more good and sufficient sureties, payable to the county judge of said county, for the use and benefit of the road and bridge fund, conditioned that they will perform all the duties required of them by law or by the Commissioners' Court, and that they will account for all money or property belonging to the county that may come into their possession.

Each of said commissioners shall receive as salary for the services required of them by this act three hundred dollars per annum, payable quarterly, or as the Commissioners' Court may determine.

Sec. 2. Subject to the orders and control of the Commissioners' Court, the road commissioners shall have charge of all such teams, wagons, tools and machinery as the Commissioners' Court shall place in their custody for use on the public roads of said county, and shall execute and deliver to the county clerk of said county his receipt therefor, specifying each item and its value, which shall be filed by the clerk of the county court in his office, and a certified copy thereof shall be admissible in evidence in any suit against said commissioner and his sureties or either of them, on his said bond for the property or the value thereof, the same as the original would be.

Said road commissioner and his sureties shall be responsible on his bond for all such property thus turned over to him until he shall account therefor.

Sec. 3. The road commissioners shall have control of all road overseers in the county, and shall deliver to each all teams, tools, wagons and machinery necessary in working the roads in the district of such overseers so far as he has been supplied therewith by the Commissioners' Court, taking the receipt of said road overseer therefor, specifying each item and giving its value, which receipt shall be a full answer to the liabilities of the road commissioner for all such teams, wagons, tools and machinery. It shall be the duty of the road overseer, when he has finished the work on his road, to return to said road commissioner all teams, wagons, tools and machinery received from him, and to take up the receipt given for the same.

Sec. 4. Each road commissioner and overseer shall, as to all teams, wagons, tools and machinery delivered to him by the Commissioners' Court or road commissioner, be deemed and held to be the bailee of the county, and shall be responsible to the county for the value thereof until accounted for by him.

It shall be sufficient to exempt the road commissioners or any road overseer from liabilities for any property received by him as herein provided to show that he has delivered the same to any person authorized by law or by the orders of the Commissioners' Court of the county to receive the same, or that the same has died, been lost or destroyed without negligence or fault on his part.

Sec. 5. It shall be the duty of the road commissioners of the county, so far as practicable and as soon as possible, to inform themselves of the condition of the public roads of their respective precincts, and under such rules and regulations as may be prescribed by the Commissioners' Court of said county, said road commissioners shall determine what character of work shall be done upon the different roads of their precincts, and when and wherever needed, they shall establish the grade of such roads and direct the manner of draining the same, which directions shall be obeyed and observed by all road overseers unless changed by order of the Commissioners' Court.

Sec. 6. The road commissioners may require each road overseer to call out the hands under his direction in such number as may be sufficient to use the teams, wagons, tools and machinery allotted to such road district and at such times as may be necessary, but no road hand shall

be required to serve in any one year exceeding five days, unless the term of service as prescribed by the general law shall be extended beyond that period.

Each road overseer shall have control of all hands within his road district and subject to road duty, and shall see that each such road hand shall perform his duty in working said roads and that each hand when called out shall perform a fair day's work, and if any hand so called out shall refuse to work in a proper manner, or to do his part of any service assigned him, such road overseer shall treat him as if he had failed to appear in obedience to the summons, and such hand shall be liable to the same penalties as if he had failed to appear in obedience to the summons.

The Commissioners' Court may allow to each road overseer who shall be engaged in the discharge of his duty for more than five days during any one year, a compensation not to exceed \$1.50 per day for the time so served over and above five days, and in addition thereto said court may enter an order exempting such road overseer from duty in said county for the next succeeding year, if his services, in the opinion of the court, have been of a kind to merit such exemption.

Sec. 7. The Commissioners' Court of said county shall have full power and authority to adopt such system for working, laying out, and repairing the public roads in such county as to said court may seem best; and from time to time said court may change its plans or system of work in such manner as it may deem advisable. The said Commissioners' Court shall have the power to purchase such teams, wagons, tools and machinery as may be necessary for the working of its public roads, and also all material that may be needed therefor; all of which shall be paid out of the road and bridge fund of said county. The Commissioners' Court of the county may, in its discretion, work the county convicts of said county upon the public roads, and shall pay the officers one-half of the costs so worked out by them.

As a reward for faithful services and good behavior while engaged in any work upon the public roads, the said Commissioners' Court shall have the authority to grant a reasonable commutation of time for which any convict would be compelled to work in order to pay his fine and costs, and such court shall make proper rules and regulations to govern and control in the granting of such commutations.

The said Commissioners' Court shall have authority to employ such labor as may be necessary to work the public roads of the county, to be paid for out of the road and bridge fund, and such labor shall be under the control of the road commissioners or such other persons as said court may employ and direct.

Sec. 8. Every owner of a farm or other lands upon which a hedge of any description grows on or near the line of a public road shall be required to keep the same trimmed so that the height of the same shall not exceed five feet above the level of the ground, and any such owner who shall fail or neglect to so trim such hedge shall be notified in writing by the road overseer of that district to trim such hedge as herein required; and in case such owner shall, after receiving such notice, fail or refuse to so trim such hedge within a reasonable time, he shall be deemed guilty of a misdemeanor, and upon conviction, shall be fined in any sum not to exceed twenty dollars per week from and after the time

that he received said notice, such fine to be paid into the county treasury and to be placed to the credit of the road and bridge fund of said county.

If any owner of any farm shall fail or refuse, after being notified as herein required, to trim his hedge, as required by this act, then the road overseer shall cause the same to be trimmed in accordance with the provisions of this act, to be paid for out of the road and bridge fund of the county.

Sec. 9. The Commissioners' Court of said county may make contracts for all supplies and materials to be used in feeding the hands and teams employed on the public roads and in the work of the same, and may make rules and regulations by which the same, and all contracts, shall be paid by the county, and all persons employed by said court shall be governed by such rules and regulations.

The said court may from time to time make all necessary rules and regulations for the government of the road commissioners, and all persons employed by said county on the public roads, which rules and regulations shall be entered upon the minutes of the court and a certified copy to be delivered to each person to be governed thereby.

Said court may require of the road commissioners to make reports at such times and in such manner as may be prescribed by the said court, and any road commissioner refusing to make such reports shall be removed, and shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not to exceed one hundred dollars.

Sec. 10. Whenever it shall be necessary to occupy any lands, for the purpose of opening, widening, straightening, or draining any road or any part thereof, if the owner of such land and the county can not agree upon the damages to be paid, the county may proceed to condemn the same in the same manner that a railroad company can condemn lands for rights of way, and the same proceedings shall be had and the same right shall exist as to each party as would exist if the proceedings were by a railroad company, except that the county shall not be required in any case to give bond.

Sec. 11. This act shall be taken notice of by all courts in the same manner as a general law of the State, and it shall be construed to be cumulative of all general laws of the State on the subject of roads and bridges when not in conflict therewith; but in case of such conflict this act shall control as to the county of Travis.

The term "roads" includes the roadbeds, ditches and drains, the bridges and culverts, and every part of such road. The term "work and working," as used herein, shall include the opening and laying out of new roads, widening roads, constructing and building, repairing and draining, of such roads, and everything that may be done in and about the maintenance of such road.

Sec. 12. The fact that the public travel is in need of good roads creates an emergency and imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and it is so suspended, and this act shall be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act passed the House by a two-thirds vote, yeas 93, nays 1; and passed the Senate by a two-thirds vote, yeas 25, nays none.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval on Tuesday, the second day of March, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

H. B. No. 54.]

CHAPTER 25.

An act to amend Article 338 of the Penal Code of the State of Texas adopted A. D. 1895, so as to fix the penalty for unlawful carrying arms at a fine of not less than \$25 nor more than \$200.

Section 1. Be it enacted by the Legislature of the State of Texas: That Article 338 of the Penal Code of the State of Texas shall hereafter read as follows:

Article 338. If any person in this State shall carry on or about his person, saddle, or in his saddle-bags, any pistol, dirk, dagger, slungshot, sword-cane, spear, or knuckles made of any metal or any hard substance, bowie knife, or any other knife manufactured or sold for purposes of offense or defense, he shall be punished by a fine of not less than twenty-five nor more than two hundred dollars.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on Tuesday, the second day of March, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

Takes effect 90 days after adjournment.

H. B. No. 109.]

CHAPTER 26.

An act to amend Article 1814, Article 1815, and Article 1816, of Title XXXVII. of the Revised Civil Statutes of 1895 of the State of Texas, relating to the time and manner of making returns to the Secretary of State of elections for electors of President and Vice President, and of estimating the same, and of the meeting of the electors, and to add thereto Article 1815a, providing a method of determining contests for said offices.

Section 1. Be it enacted by the Legislature of the State of Texas: That Articles 1814, 1815, and 1816, of the Revised Civil Statutes (1895) of the State of Texas, be amended, and a new article to be known as Article 1815a be added thereto, so as to hereafter read as follows:

Article 1814. On the Monday next following the day of election, or as soon thereafter as the Commissioners' Court shall have opened the election returns, and estimated the result, in accordance with article 1753, the county judge shall make duplicate returns of the election, one of which he shall immediately transmit to the seat of government in this State, sealed in an envelope, directed to the Secretary of State, and endorsed "Election Returns for County for Presidential Electors,"

[filling the blank with the name of the county] and the other of such returns shall be deposited in the office of the Clerk of the County Court of the county where such election was held.

Article 1815. It shall be the duty of the Secretary of State, in the presence of the Governor and Attorney General or either of them, on the fourth Monday in November next after said election, to open all the election returns received by him, and correctly add up all the votes cast in the several counties for each of the said electors, and cause the result thereof, with the names of the persons elected, to be forthwith published in some newspaper printed at the seat of government, and shall issue certificates of election to the persons so elected.

Article 1815a. Any person or persons intending to contest the election of any or all of the persons declared elected as provided in Article 1815, as electors of president and vice-president, shall within fifteen days from the said fourth Monday in November, file with the Secretary of State a written statement of the ground on which such contestant relies to sustain such contest, and shall, within such time, notify the contestee thereof in writing, and deliver to him, his agent, or attorney, a copy of said statement. The contestee shall, within ten days after receiving such notice, file with the Secretary of State his reply thereto in writing. The contest shall, as soon thereafter as possible, be tried and determined by the State Board of Canvassers, consisting of the Governor, Attorney General, and Secretary of State, or any two of them, and their decision shall be rendered at least six days before the time fixed by law for the meeting of the electors. Such decision, in which two at least of such board shall join, shall be final, and certificates of election, in accordance therewith, shall at once be issued by the Secretary of State to the proper parties. Where not otherwise herein provided, the provisions of Chapter 7, of Title XXXVI, of the Revised Statutes, relating to contests for the validity of an election for members of the Legislature shall apply to such contests for presidential electors.

Article 1816. The electors, so chosen, shall convene in the Capitol at the seat of government of the State, on the second Monday in January next after their election, and vote for President and Vice President of the United States, and make returns thereof as is or hereafter may be required by the laws of the United States.

Sec. 2. The large number of bills on the calendar, and the impossibility of considering them all within the probably brief limits of this session, creates an imperative public necessity for the suspension of the constitutional provision requiring bills to be read on three several days, and said rule is hereby suspended.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on Tuesday, the second day of March, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

Takes effect 90 days after adjournment.

H. B. No. 87.]

CHAPTER 27.

An act to amend Article 4069, Chapter 4, Title LXXXVII, of the Revised Civil Statutes of the State of Texas, relating to bonds of county surveyors.

Section 1. Be it enacted by the Legislature of the State of Texas: That Article 4069, Chapter 4, Title LXXXVII, of the Revised Civil Statutes of the State of Texas, be so amended as to hereafter read as follows:

Article 4069. Before entering upon his duties, the county surveyor shall take the oath of office prescribed by the Constitution, and shall enter into bond, with two or more good and sufficient sureties, to be approved by the Commissioners' Court of the county, in such sum as may be fixed by such Commissioners' Court, not to be less than five hundred dollars, nor more than ten thousand, payable to the Governor and his successors in office, conditioned that he will faithfully perform all of the duties of his office, which bond shall be deposited and recorded in the county clerk's office of the county.

[Note.—The foregoing act was presented to the Governor of Texas for his approval on Monday, the 8th day of March, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Mad-den, Secretary of State.]

Takes effect 90 days after adjournment.

H. B. No. 82.]

CHAPTER 28.

An act to amend Article 878, Title 17, Chapter 9, of the Penal Code of the State of Texas, and to make the receiving or concealing of stolen property a criminal offense, and to provide appropriate penalties for said offense, and to repeal all laws and parts of laws in conflict with the provisions of this act.

Section 1. Be it enacted by the Legislature of the State of Texas: That Article 878, Title 17, Chapter 9, of the Penal Code of the State of Texas, be and the same is hereby amended so as to read as follows, viz.:

Art. 878. If any person shall receive or conceal property which has been acquired by another in such manner as that the acquisition comes within the meaning of the term, theft, knowing the same to have been so acquired, he shall be punished in the same manner as if he had stolen the property.

Sec. 2. That all laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

Approved March 20, 1897.

Takes effect 90 days after adjournment.

H. B. No. 322.]

CHAPTER 29.

An act to amend Article 1407 of the Revised Civil Statutes of the State of Texas, relating to the security for costs by State officials in civil actions.

Section 1. Be it enacted by the Legislature of the State of Texas: That Article 1407 of the Revised Statutes of this State be amended so as to hereafter read as follows:

Article 1407. Neither the State of Texas, nor the Railroad Commission of Texas, nor the head of any department of the State of Texas, prosecuting or defending in any action in their official capacity, shall be required to give bond on any appeal or writ of error taken by it, or either of them, in any civil case.

Sec. 2. The fact that the Railroad Commissioners are liable at any time to be called upon to execute appeal or writ of error bonds creates an emergency, and an imperative public necessity exists which requires the suspension of the constitutional rule requiring bills to be read on three several days, and that this act take effect from and after its passage, and it is so enacted.

Approved March 20, 1897.

[Note.—The foregoing act passed the House by a two-thirds vote, yeas 97, nays 2; and passed the Senate by a two-thirds vote, yeas 21, nays none.]

H. B. No. 394.]

CHAPTER 30.

An act to amend Article 867, Chapter 1, Title XXV, of the Revised Civil Statutes of the State of Texas, relating to county finances.

Section 1. Be it enacted by the Legislature of the State of Texas: That Article 867, Chapter 1, Title XXV, of the Revised Civil Statutes of the State of Texas, be and the same is hereby amended so as to read as follows, to-wit:

Article 867. When the Commissioners' Court has compared and examined the quarterly report of the Treasurer and found the same correct, it shall cause an order to be entered upon the minutes of the court stating the approval thereof, which order shall recite separately the amount received and paid out of each fund by the Treasurer since the preceding Treasurer's quarterly report, and the balance of such fund, if any, remaining in the Treasurer's hands, and shall cause the proper credit to be made in the accounts of the Treasurer in accordance with said order, and said court shall actually inspect and count all the actual cash and assets in the hands of the Treasurer belonging to the county at the time of the examination of his said report; and prior to the adjournment of each regular term of the court, the county judge and each of the commissioners shall make affidavit in writing that the requirements of this Article have been in all things fully complied with by them at said term of said court, and that the cash and other assets mentioned in the said county Treasurer's quarterly report made by said Treasurer to said court,

and held by him for the county, have been fully inspected and counted by them, giving the amount of said money and other assets in his hands, which affidavits of the members shall be filed with the county clerk of the county, and by him recorded in the minutes of the said County Commissioners' Court of the term at which the same were filed, and the same shall be published in some newspaper published in the county, if there be a newspaper published in the county, for one time, to be paid for at the same rate as other legal notices.

And any county judge, county commissioner, or county clerk in this State, who shall negligently or intentionally fail or refuse to comply with the requirements of this Article, shall be deemed guilty of a misdemeanor, and upon conviction thereof in a court of competent jurisdiction shall be fined in any sum not less than twenty-five nor more than five hundred dollars.

Sec. 2. The great importance of protection and safety of the public funds belonging to the counties of this State, and the absence of any adequate law to safely guard the same, creates an emergency, and imperative public necessity, that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved March 20, 1897.

[Note.—The foregoing act passed the House by a two-thirds vote, yeas 95, nays 2; and passed the Senate by a two-thirds vote, yeas 21, nays none.]

H. B. No. 213.]

CHAPTER 31.

An act to restore and confer upon the County Court of Hardin County the civil and criminal jurisdiction heretofore belonging to said court under the Constitution and general statutes of Texas; to define the jurisdiction of said court; to conform the jurisdiction of the District Court of said county to such change; to fix the time of holding court, and to repeal all laws in conflict with this act.

Section 1. Be it enacted by the Legislature of the State of Texas: That the County Court of Hardin County shall hereafter have exclusive original jurisdiction in civil cases wherein the matter in controversy shall exceed in value two hundred dollars, and shall not exceed five hundred dollars exclusive of interest, and shall have concurrent jurisdiction with the District Court of said county when the amount in controversy shall exceed five hundred dollars and not exceed one thousand dollars.

Sec. 2. Said County Court shall have appellate jurisdiction in civil case over which Justices' Courts have original jurisdiction, when the judgment of the court appealed from, or the amount in controversy, shall exceed twenty dollars, exclusive of interest, and said County Court shall have power to hear and determine cases brought up from Justices' Courts by certiorari under the provisions of the title of the Revised Statutes of 1895, relating thereto.

Sec. 3. The County Judge of said county shall have authority, either in term time or in vacation, to grant writs of injunction, sequestration, mandamus, garnishment, attachment, certiorari, supersedeas, and all

other writs necessary to the enforcement of the jurisdiction of said court, and shall also have power to issue writs of habeas corpus in all cases in which the Constitution has not exclusively conferred the power on the District Court or judge thereof.

Sec. 4. That said court shall have and exercise the general jurisdiction of a probate court; shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards; grant letters testamentary and of administration; settle accounts of executors, administrators, and guardians; transact all business pertaining to the estate of deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the partition, settlement, and distribution of estates of deceased persons; and to apprentice minors, as provided by general law, and to issue all writs necessary for the enforcement of its jurisdiction, orders, and decrees.

Sec. 5. Said County Court shall have jurisdiction in the forfeiture and judgment of all bonds and recognizances taken in criminal cases of which said court has original or appellate jurisdiction.

Sec. 6. Said County Court shall have exclusive original jurisdiction of all misdemeanors, except misdemeanors involving official misconduct, and excepting misdemeanors in which the highest penalty that may be imposed by the law is a fine, without imprisonment, that does not exceed two hundred dollars; and said court shall have concurrent jurisdiction with that of justices of the peace in criminal cases, and appellate jurisdiction, with trial de novo, in criminal cases in which justices of the peace and other inferior tribunals of said county have original jurisdiction.

Sec. 7. The District Court of said county shall no longer have jurisdiction of misdemeanors, except misdemeanors involving official misconduct, and shall no longer have jurisdiction of cases of which the county court of said county, by provisions of this act, has original or appellate jurisdiction.

Sec. 8. It shall be the duty of the District Clerk of said county, within thirty days after this act shall take effect, to make full and complete transcripts of orders on the criminal and civil dockets then pending before the District Court of said county, of which cases by the provisions of this act original and appellate jurisdiction is given to the said County Court, and to deliver said transcript, together with the original papers in each case, to the County Clerk of said county, and the said County Clerk shall file the same and enter said cases on the respective dockets for trial by said court.

Sec. 9. The said County Court shall also have the power to hear and determine all motions against sheriffs and other officers of the court for failure to pay over moneys collected under the process of said court, or other defalcations of duty in connection with such process, and shall have power to punish by fine, not exceeding one hundred dollars, and by imprisonment in the county jail, not exceeding three days, any person guilty of contempt of said court, and all other powers and jurisdiction conferred on county courts by the Constitution and general laws of this State.

Sec. 10. The terms of said court shall commence on the first Monday in February, and on the first Monday in May, and on the first Monday in August, and on the first Monday in November, of each year, and shall

continue in session for each term until the business may be disposed of: Provided, that the County Commissioners' Court of said county may hereafter change the terms of said court whenever it may deem necessary.

Sec. 11. All laws and parts of laws in conflict with this act, in so far as they relate to Hardin County, Texas, be and the same are hereby expressly repealed.

Sec. 12. The crowded condition of the docket of the District Court of Hardin County, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days, be suspended, and that this act take effect and be in force from and after its passage, and said rule is so suspended, and it is so enacted.

Approved March 20, 1897.

[Note.—The foregoing act passed the House, and having passed the Senate with the addition of the emergency clause (Section 12) by a two-thirds vote, yeas 26, nays none, the House concurred by a two-thirds vote, yeas 104, nays 1.]

H. B. No. 8.]

CHAPTER 32.

An act to amend Chapter six, Article 400, of the Penal Code of the Revised Statutes of the State of Texas, relating to the sale or gift of intoxicating liquors to minors.

Section 1. Be it enacted by the Legislature of the State of Texas: That Chapter 6, Article 400, of the Penal Code of the Revised Statutes of the State of Texas, shall hereafter read as follows, to-wit:

Any person who shall knowingly sell, or give, or cause to be sold or given, or shall procure, or cause to be procured, for delivery, any spirituous, vinous, or intoxicating liquor to any other person under the age of twenty-one years, without the written consent of the parent or guardian of such minor, or some one standing in their place or stead, shall be fined not less than twenty-five, nor more than one hundred dollars.

Approved, March 22, 1897.

Takes effect 90 days after adjournment.

S. B. No. 32.]

CHAPTER 33.

An act to amend Chapter 4, Title 7, of the Code of Criminal Procedure of the State of Texas, by adding thereto article 524a, providing for the issuance of attachments for witnesses residing in the county of the prosecution when such witness is about to remove therefrom.

Section 1. Be it enacted by the Legislature of the State of Texas: That Chapter 4, Title 7, of the Code of Criminal Procedure of the State of Texas, be so amended as to add thereto Article 524a, to read as follows, to-wit:

Article 524a. When a witness resides in the county of the prosecu-

tion, whether he has disobeyed a subpoena or not, either in term time or vacation, upon the filing of an affidavit with the Clerk by the defendant or State's counsel that he has good reason to believe and does believe that such witness is a material witness, and is about to move out of the county, it shall be the duty of the Clerk to forthwith issue an attachment for such witness; provided, that in misdemeanor cases, when the witness makes oath that he can not give surety, the officer executing the attachment shall take his personal bond.

Approved, March 22, 1897.

Takes effect 90 days after adjournment.

H. B. No. 50.]

CHAPTER 34.

An act to amend Article 1757 of the Revised Civil Statutes (1895) of Texas, relating to the time and manner of making returns to the Secretary of State of elections for State and District officers, etc.

Section 1. Be it enacted by the Legislature of the State of Texas: That Article 1757 of the Revised Civil Statutes of 1895 be amended so as hereafter to read as follows:

In all elections for Comptroller of Public Accounts, Treasurer of the State, Commissioner of the General Land Office, Attorney General, State Superintendent of Public Instruction, Railroad Commissioners, Judges of the Supreme Court, Court of Criminal Appeals, Courts of Civil Appeals, and District Courts, District Attorneys, Representatives in the Congress of the United States, and for the adoption or rejection of proposed Constitutional amendments, the County Judge shall, on the Monday next following the day of election, or as soon thereafter as the Commissioners' Court shall have opened the returns and estimated the result, as provided in article 1753, make out duplicate returns of the election; one of which he shall immediately transmit to the seat of government of the State, sealed in an envelope, directed to the Secretary of State, and endorsed "Election Returns for County, for (filling the first blank with the name of the county and the other blank with the name of the office for which the election was held, or a designation of the proposed amendments to the Constitution voted upon, as the case may be); and the other of such returns shall be deposited in the office of the Clerk of the County Court of the county where such election was held.

Approved, March 22, 1897.

Takes effect 90 days after adjournment.

H. B. No. 83.]

CHAPTER 35.

An act to create a more efficient road system for Rains County, Texas, making provision for the appointment by the Commissioners' Court of said county of a county road commissioner for said county, prescribing his duties and compensation; providing for the appointment of road overseers, defining their duties and liabilities; providing for the working of county convicts, and delinquent poll tax payers, upon the public roads of said county, and regulating the same; providing for officers' fees and rewards, in convicting convicts and recapturing escaped convicts; for the summoning of teams and tools for road work, and compensation for same, and providing penalties for violations of this act, and to repeal all laws in conflict with this act, and providing for County Commissioners to act as road commissioners.

Section 1. Be it enacted by the Legislature of the State of Texas: That the Commissioners' Court of Rains county shall be empowered to appoint a county road commissioner for said county, who shall, under the direction of said court, have charge of all teams, tools, and machinery belonging to the county, under such rules and regulations as the Commissioners' Court may prescribe to superintend the laying out of new roads, the making, changing, and discontinuing of roads and the building and repairing of bridges, drains and culverts; provided, it shall be the duty of the Commissioners' Court to order the complete drainage of all basins, in the roads, so as to prevent the collecting of water thereon, and the filling in and ditching, on the sides of all hills, on said roads, where water is inclined to run down, along or across the road-bed; said county road commissioner shall, before entering upon the duties of his office, enter into a good and sufficient bond, in the sum of two thousand dollars, with two or more good and sufficient sureties, payable to the County Judge of said county, for the use and benefit of the road and bridge fund, conditioned that he will perform all the duties required of him by law, or by the Commissioners' Court, and that he will account for all money or property belonging to the county that may come into his possession: Provided, it shall be within the discretion of the Commissioners' Court of said county to appoint such county road commissioner, and in case they fail to appoint such commissioner, the Commissioners' Court shall direct the action of the road overseers in said county, and in case of the appointment of said road commissioner he shall receive such compensation for his services as may be provided by the Commissioners' Court, not exceeding one dollar and fifty cents per day, provided, he shall never receive exceeding one hundred and twenty dollars in any one year.

Sec. 2. The Commissioners' Court of said county shall have full power and authority, and it shall be its duty to adopt such system for working, laying out and draining and repairing the public roads and bridges in said county as it may deem best, and from time to time said court may change its plan or system of working; provided, said system or change of system shall not be in conflict with section one herein.

Said Commissioners' Court shall have power to purchase such teams, tools and machinery as may be necessary for working its roads, when there is money in the county treasury, belonging to the road and bridge fund, of said county, sufficient to pay for same and not otherwise appropriated.

Said court shall have the power to construct, grade or otherwise improve any road or bridge by contract when there is sufficient road and bridge fund on hand for the payment of same. In such case, said court or the County Judge may advertise in such manner as said court may determine for bids to do such work; and the contract shall be awarded to the lowest responsible bidder, who shall enter into bond payable to the County Judge of said county, for the use of the road and bridge fund, with two or more good and sufficient sureties, to be approved by the County Judge of said county, in such sum as the Commissioners' Court may determine, not less than double the amount of said bid, for the faithful compliance with the terms of said contract, which contract shall be in writing and signed by the bidder and the County Judge of said county: Provided, that if said County Judge shall knowingly approve any bonds herein provided for, when such bond is insolvent, he shall be liable, for any loss accruing therefrom, on his official bond, to be recovered by suit in the District Court of said county.

At the time of making such contract, the court shall direct the County Treasurer to pass the amount thereof to a particular fund for that purpose, and the Treasurer shall keep a separate account of such funds, and the same shall not be used for any other purpose, unless such contract shall be forfeited, in which case, it shall revert back to the road and bridge fund from which it shall be appropriated, and same shall not be paid out except upon the order of said court; and the said court shall have authority to employ any hands or teams to work on the roads under such regulations, and for such price, as they may deem best, not in conflict with the provisions of this act; and provided further, that no contract as provided herein, shall be made unless there is sufficient money in the treasury, of the road and bridge fund, subject to such order, to meet the same; provided, that the moneys expended under this provision shall be so expended as to inure to the benefit of all portions of the county so far as practicable.

Sec. 3. The Commissioners' Court of said county shall require all county convicts not otherwise employed, to labor upon the public roads, under such regulations as they may prescribe, and each convict so worked shall receive a credit of fifty cents, on his fine and costs, for each day he may labor, to be applied first to the payment of his fine and then upon the costs. Such Commissioners' Court may provide such reasonable regulations and punishment as may be necessary to compel such convicts to perform good work; and said court may provide a reward, not to exceed twenty-five dollars, to be paid out of any road and bridge fund not otherwise appropriated, for the capture and delivery of any escaped convict, to be paid to any person, other than the guard or person in charge of such convict at the time of his escape. The Commissioners' Court may grant a reasonable commutation of time, for which a convict is committed, as a reward for faithful services and good behavior, in no case to exceed one-eighth of the whole time; and provided further, in case of such commutation, the losses shall be prorated on the fines and the costs.

Said court may provide the necessary houses, prisons, clothing, bedding, food, medicines, medical attention, and guards, for the safe and humane keeping of convicts, provided it shall not be deemed necessary to

provide additional prisons, while such convicts can be successfully employed in reach of the county jail, and such convict shall be employed as herein provided, until all fines and costs assessed against him shall be fully satisfied, except as herein provided; and provided further, that such convicts be worked as nearly as practicable so that all sections of the county may be equally benefited thereby; and provided further, that guards shall receive as compensation for their services not exceeding one dollar per day, out of which they shall pay their own expenses.

Sec. 4. The county road commissioner when appointed, shall have control of all road overseers in his county, and shall deliver to each of them all teams, tools, and machinery necessary in working the roads in his precinct, so far as he has been supplied therewith by the Commissioners' Court, taking receipt of said overseer therefor, specifying each item and giving its value, which receipt shall be a full answer of the liability of the Commissioners, and shall fix the liability of the overseer, and any overseer or Commissioner who shall have been entrusted with any such property belonging to said county shall be liable for any damages that may occur to the same while in his possession, caused by his negligence or want of due care of same, and shall not use or permit the same to be used for private purposes, without the consent of the Commissioners' Court.

It shall be the duty of the road overseer when he has finished work on his roads, for the time for which he has warned his hands, to return to said Commissioner all such property received from him, and take up the receipt given therefor.

Sec. 5. It shall be the duty of the road commissioner to inform himself of the condition of the public roads of his county, and he shall determine what character of work shall be done upon said roads, and shall direct the manner of grading, draining, or otherwise improving the same, not in conflict with the provisions of this act, which directions shall be observed and obeyed by all road overseers under the jurisdiction of said Commissioner.

Sec. 6. The road commissioner may require each road overseer to call out the hands in such numbers as may be sufficient to perform the work then demanded or as such overseer may be able to work to advantage, with such implements and teams as may be accessible to him, but no road hand shall be required to work exceeding five days in any one year, unless as a penalty for some offense or for a failure to pay his poll taxes, or two and one-half days with a double team, or three and one-half days with a single team, unless the term of service, as prescribed by general law, shall be extended beyond five days in each year, in which case the same proportionate allowance shall be made for teams, and provided that all road hands in any particular precinct shall as far as practicable be worked a uniform time, and provided further, that sickness or any other temporary excuse from working shall not avail as a credit on the time for which such hand is liable, but shall excuse him from any penalty at that time; and provided further, that each road overseer in said county shall keep an account with each hand liable to road service in his precinct, and shall charge each one with the time for which he is liable, and credit him with each day which said hand may work under the direction of his overseer.

Each road overseer, or in case of his absence, any person deputed by him, shall have full control of all road hands within his road precinct and shall see that each hand when called out shall perform a good day's work; and if any hand when so called out shall fail or refuse to perform a good day's work, or to work in the manner the overseer may direct, he shall be liable to the same penalties as if he had failed to appear in obedience to summons. The overseer shall be authorized to pass upon the sufficiency of any team or substitute offered to work upon the public roads in his precinct, and when he rejects the same his decision shall be final. The Commissioners' Court may allow any overseer who shall be necessarily engaged in the discharge of the duties of his office for more than five days during any one year, a compensation not to exceed one dollar and twenty-five cents per day for the time so served.

Sec. 7. Any citizen of Rains County liable for road duty, who shall on or before the first day of January of each year, pay to the county Treasurer the sum of three dollars and fifty cents shall be excused from road duty for such year, beginning on the first day of January of that year. The Treasurer shall receive and receipt for all such money so paid him and place it to the credit of the road and bridge fund of the road precinct from which it is so collected. The Treasurer shall on the third day of January, or as soon thereafter as practicable, furnish to each road overseer a list of all persons in his road precinct who have paid said sum as provided in this section.

Sec. 8. Every person liable to work on roads, by paying to his overseer at any time before the time appointed to work on his road, the sum of one dollar for each day that he is summoned to work on his road, and one dollar for each day he is summoned to furnish a double team for road work, and fifty cents for each day he is summoned to furnish a single team for road work, shall be exempt from working or furnishing his team for each day so paid for, and also exempt from all penalties for failure to work or furnish such team for the time for which he has so paid; and provided further, that if the overseer shall find it not necessary to work any or all of such hands or teams for the full time for which they may have been summoned, he shall credit each hand with the time actually worked, and the time necessary to reach his home, and discharge any or all such hands for the time being.

Sec. 9. Each person summoned to work on a road, shall take with him such implements suitable for working on the road as he may be summoned and directed by the overseer to take with him, or if he has no such implement, he shall take such other suitable tool as he may have; provided, the county shall be liable for, and the Commissioners' Court, under such regulations as they may prescribe, shall pay for all such breakage or damage to such tools as may have resulted from public road work and not caused by the negligence of the person furnishing the same. Such overseer may also summon and require such road hand to bring with him for public road work such team or teams as he may have on hand suitable for road work, provided such hand shall be allowed such time for the use of such team or teams as provided in Section eight herein.

Sec. 10. If any person liable to work upon the public roads after being legally summoned shall intentionally fail or refuse to attend either in person or by able and competent substitute, to be passed on by the over-

seer, or fail or refuse to furnish his team or tools at the time and place designated by the person summoning him, or pay to such overseer the penalties provided for in Section eight herein; or having attended as required shall fail to perform good service or any other duty required of him by law or by the person under whom he may work, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in any sum not exceeding twenty-five dollars nor less than ten dollars.

Sec. 11. At the regular term of the Commissioners' Court in November, A. D. 1897, and at the same time in each year thereafter, all road overseers shall make their reports under oath, upon forms to be furnished them by said court, which said reports shall be examined by said court, and all accounts for services or labor performed, for overwork by him, shall be audited and settled; and as soon thereafter as practicable said Commissioners' Court shall appoint and commission road overseers for the succeeding year. Any overseer intentionally failing to perform his duties as such overseer, or failing or refusing to make his report, as required by law, or failing and refusing to serve and perform the duties of overseer when appointed by said court, or to perform any other duty required of him by law, or by the Commissioners' Court, or by the road commissioner, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than the sum of twenty-five dollars nor more than one hundred dollars; provided, it shall be prima facie evidence of his failure to perform his duty, if his road or roads be found in bad condition, and that he has not worked all the hands liable to road duty in his road precinct for the time for which they are liable to road duty in his road precinct for the time for which they are liable in that year; and provided further, that it shall be the duty of each overseer to report to the Commissioners' Court the state of his account with his hands; and provided further, that it shall be lawful for any overseer to deputize some one of his hands, who is fitted for the place, to perform his duties, whose acts shall have the same force and effect as if performed by the overseer himself; but the overseer shall be responsible for the negligence of his said deputy, the same as if he, himself, were guilty of such negligence.

Sec. 12. Whenever it shall be necessary to occupy any land for the opening, widening, straightening, or draining any road or part thereof, if the owner of such land and the Commissioners' Court can not agree upon the damage to be paid, the county may proceed to condemn the same in the same manner that a railroad company can condemn land for right of way, and the same proceedings may be had, and the same right shall exist to each party as would exist if the proceedings were by a railroad company, except that the county shall in no case be required to give bond, and provided that no public road shall be located within less than one hundred feet of the residence or barn of any land owner across whose land such road may be located without consent of such owner.

Sec. 13. The county road commissioner shall be entitled to one dollar and fifty cents per day for the services actually and necessarily performed, provided said sum to be paid him shall not exceed one hundred and twenty dollars per annum, which shall be paid out of the road and bridge fund when the same shall have been approved by the Commissioners' Court; and the court shall not approve said account, unless the commissioner presenting it shall sign an oath that the account is just, due,

and unpaid, and specifying the number of days actually performed by him, showing where each day was spent and how, and that it was necessary to be done; and no county commissioner shall be entitled to pay as county commissioner, for inspecting the public roads in his precinct; and provided further, that no county commissioner shall be required to ride over and inspect the public roads in his precinct, nor receive any compensation for such services, but the road commissioner shall perform the duties imposed on the county commissioners as inspectors of the public roads.

Sec. 14. It shall be lawful for any delinquent poll-tax payer in Rains County, to perform two days service upon the public roads in his road precinct in each and every year, in discharge of his said delinquent poll-tax, unless the rate of poll-tax now provided for by the general laws of Texas shall be changed, in which case a proportionate time of service shall be held to discharge said delinquent for one year's poll-taxes; and provided further, that this act shall not be held to annul any laws upon the general statutes of Texas for the collection of delinquent taxes, but shall be held as cumulative thereto in Rains County; and provided further, that such delinquent taxpayers shall perform such road service, under the direction of the road overseer, under the same regulations herein provided for parties subject to road service under the general laws of the State.

Sec. 15. It shall be the duty of the Commissioners' Court, as far as practicable, to expend the money spent for bridges and improvements in the public roads for the benefit of the sections of the county in proportion to the amounts paid in from the different sections of said county.

Sec. 16. Provided, the County Commissioners' Court deem it best to not appoint a county road commissioner, it shall be the duty of the commissioners to supervise the public roads under the same provisions herein provided for county road commissioners, they to apportion the work among themselves and to enter into bond in the same manner provided for a county road commissioner, except that the bond may be for any sum not less than one thousand dollars each, and said court in such case shall designate and number the districts of each commissioner and he shall qualify as road commissioner for his road district.

Sec. 17. This act shall be taken notice of by all the courts in the same manner as the general laws of this State, and it shall be construed to be cumulative of all general laws of the State on the subject of roads and bridges, when not in conflict therewith, but in case of conflict this act shall control as to the County of Rains.

Sec. 18. All laws and part of laws, in conflict herewith, are hereby repealed.

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Thursday, the eleventh day of March, A. D. 1897, but was not signed by him nor returned to the House in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

Takes effect 90 days after adjournment.

H. B. No. 513.]

CHAPTER 36.

An act to diminish the civil and criminal jurisdiction of the County Court of Marion County in this State, and conform the jurisdiction of the District Court of said county to such change.

Section 1. Be it enacted by the Legislature of the State of Texas: That the County Court of Marion County, Texas, shall have and exercise the general jurisdiction of probate courts, shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the partition, settlement and distribution of estates of deceased persons, and to apprentice minors as prescribed by law, and to issue all writs necessary to the enforcement of its jurisdiction, and to punish contempts under such provisions as are or may be provided by general law governing County Courts throughout the State; but said County Court shall have no other jurisdiction, civil or criminal.

Sec. 2. That the District Court of said county shall have and exercise jurisdiction in all matters and causes, civil and criminal, over which by the general laws of the State, the County Court of said county would have jurisdiction, except as provided in Section one of this act, and that all cases other than probate matters and such as are provided in Section one of this act be and the same are hereby transferred to the District Court of said county, and all writs and process, civil and criminal, heretofore issued by or out of said County Court, other than those pertaining to matters over which, by section one of this act, jurisdiction is given to the County Court of said county, be and the same are hereby made returnable to the next term of the District Court in and for said county.

Sec. 3. That the Clerk of the County Court of said county be and he is hereby required, within twenty days after the passage of this act, to make a fair and complete transcript of all entries on the dockets of said court, theretofore made in causes which by Section two of this act are transferred to the District Court of said county, and file the same, together with the original papers of all causes and proceedings, with the Clerk of the District Court of said County of Marion; and all such cases shall immediately be docketed by the Clerk of the District Court of said county, and shall stand on the docket of said court as appearance cases for the next term of said court; and for each of such transcripts the County Clerk aforesaid shall receive twenty cents per one hundred words, and fifty cents for a certificate thereto, to be taxed as cost against the party cast in the suit, if a civil suit, and if a criminal against the defendant if convicted.

Sec. 4. That all laws and parts of laws in conflict with this act be and the same are hereby repealed.

Sec. 5. Whereas the immediate operation of the provisions of this act will save the county named herein a large and unnecessary expense, and whereas the time is short which remains to this session, and there is large amount of other business pending which creates an emergency and imperative public necessity which requires the suspension of the constitutional rule requiring bills to be read on three several days, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act passed the House by a two-thirds vote, yeas 90, nays none; and passed the Senate by a two-thirds vote, yeas 22, nays none.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Thursday, the eleventh day of March, A. D. 1897, but was not signed by him nor returned to the House in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

S. B. No. 74.]

CHAPTER 37.

An act to authorize the Commissioner of the General Land Office to forfeit all lands heretofore sold by the State under any of the various acts of the Legislature, for failure to pay any portion of the interest thereon.

Section 1. Be it enacted by the Legislature of the State of Texas: That if upon the first day of November of any year any portion of the interest due by any person to the State of Texas for lands heretofore sold by the State of Texas, whether said lands be a part of the public domain or shall have been heretofore set apart for the public schools, university, or any of the other various State institutions, has not been paid, it shall be the duty of the Land Commissioner to endorse on the obligation for said lands, "Lands forfeited," and shall cause an entry to that effect to be made on the account kept with such purchaser, and thereupon said land shall thereby be forfeited to the State, without the necessity of re-entry or judicial ascertainment, and shall revert to the particular fund to which it originally belonged, and be resold under the provisions of the existing law, or any future law; provided, the purchaser of said land shall have the right, at any time within six months after such endorsement of "Lands forfeited," to institute a suit in District Court of Travis County, Texas, against the Commissioner of the General Land Office, for the purpose of contesting such forfeiture and setting aside the same, upon the ground that the facts did not exist, authorizing such forfeiture, but if no such suit has been instituted as above provided, such forfeiture of the Commissioner of the General Land Office shall then become fixed and conclusive; provided, that if any purchaser shall die, or shall have died, his heirs or legal representatives shall have one year in which to make payment after the first day of November next after such death.

This act is cumulative, and is not intended to deny to the State the right to institute any legal proceedings that may be deemed necessary to secure the purchase money or possession of the land so sold. And this act is intended to be applicable to all purchases heretofore made under any or all of the various acts of the Legislature under which land may have been sold by the State.

Sec. 2. The fact that the authority of the Land Commissioner to make forfeitures of land without judicial ascertainment has been questioned, and the fact that there are now more than ten thousand purchases which can be forfeited under the law, for non-payment of the

interest due thereon, and the further fact that it is almost impossible and certainly impracticable to institute so many different suits against so many different purchasers, creates an imperative public necessity requiring the suspension of the rule providing that bills be read on three several days, and the same is hereby suspended.

Approved, March 25, 1897.

Takes effect 90 days after adjournment.

H. B. No. 402.]

CHAPTER 38.

An act to authorize the Comptroller of Public Accounts and the State Treasurer to transfer the sum of twenty thousand dollars from organized county tax fund account to State revenue account.

Section 1. Be it enacted by the Legislature of the State of Texas: That the Comptroller of Public Accounts and State Treasurer are hereby authorized and it is made their duty to transfer on the books of their respective departments, the sum of twenty thousand dollars from organized county tax account to State revenue account; the said amount having been at various times erroneously deposited to the credit of organized county tax account when it should have been deposited to the credit of State revenue account.

Sec. 2. The fact that the sum of money above named has been lying in the State treasury for a number of years to the credit organized county tax fund account, and thereby the State revenue account is deprived of the use of the same, creates an emergency and a public necessity that the law requiring bills to be read on three several days in each house be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved, March 26, 1897.

[Note.—The foregoing act passed the House by a two-thirds vote, yeas 98, nays none; and passed the Senate by a two-thirds vote, yeas 25, nays none.]

H. B. No. 68.]

CHAPTER 39.

An act to amend Article 636, Title 20, of the Revised Civil Statutes of the State of Texas, relating to the acknowledgment of married women as to the conveyance of the homestead.

Section 1. Be it enacted by the Legislature of the State of Texas: That Article 636, Title 20, of the Revised Civil Statutes of the State of Texas, be and the same is hereby amended so as to read as follows:

Article 636. The homestead of the family shall not be sold and conveyed by the owner, if a married man, without the consent of the wife. Such consent shall be evidenced by the wife joining in the conveyance and signing her name thereto, and by her separate acknowledgment

thereof taken and certified to before the proper officer and in the mode pointed out in Article 4621.

Sec. 2. The fact that there is now no adequate law in the State of Texas, for the acknowledgment of married women in the conveyance of homesteads, creates an imperative public necessity that this act take effect and be in force from and after its passage, and it is so enacted.

Approved, March 26, 1897.

[Note.—The foregoing act passed the House by a two-thirds vote, yeas 93, nays none; and passed the Senate (vote not given).]

Takes effect ninety days after adjournment.

H. B. No. 67.]

CHAPTER 40.

An act to amend Article 635, Title 20, of the Revised Civil Statutes of the State of Texas, relating to the acknowledgments of married women as to the conveyance of their separate property.

Section 1. Be it enacted by the Legislature of the State of Texas: That Article 635, Title 20, of the Revised Civil Statutes of the State of Texas, be and the same is hereby amended so as to read as follows:

Article 635. The husband and wife shall join in the conveyance of real estate, the separate property of the wife; and no such conveyance shall take effect until the same shall have been acknowledged by her privily and apart from her husband before some officer authorized by law to take acknowledgments to deeds for the purpose of being recorded, and certified to in the mode pointed out in Article 4621.

Sec. 2. The fact that there is now no adequate law in the State of Texas for the conveyance of real estate, the separate property of the wife, creates an imperative public necessity and an emergency that this act take effect and be in force from and after its passage, and it is so enacted.

Approved, March 26, 1897.

[Note.—The foregoing act passed the House by a two-thirds vote, yeas 99, nays none; and passed the Senate by a two-thirds vote, yeas 21, nays none.]

H. B. No. 65.]

CHAPTER 41.

An act to define and punish the offense of wilfully or maliciously throwing missiles or firing guns or other fire arms at or into moving trains on railroads, or any railway depot, private residence, school house, church house, court house, store house, hotel, or other public or private building, public or private tent, sail-boat or steam-boat, in this State.

Section 1. Be it enacted by the Legislature of the State of Texas: That any person who shall wilfully or maliciously throw a stone or other missile, or fire any gun, or pistol, at, against, or into, any engine, tender, coach, passenger car, whether moving or not, or any other car of any

moving train on any railway, or any railway depot, or any private residence, school house, church house, court house, store house, hotel, or other public or private building, public or private tent, sail-boat or steam-boat, in this State, shall be deemed guilty of a misdemeanor, and on conviction therefor shall be fined in any sum of not less than five dollars, nor more than one thousand dollars, or be confined in the county jail for any term of not less than ten days nor more than two years. During such term, such convict may be put to hard labor.

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Wednesday, the seventeenth day of March, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

Takes effect 90 days after adjournment.

H. B. No. 115.]

CHAPTER 42.

An act to amend Articles 744a and 744b, of the Revised Civil Statutes of the State of Texas of 1895, relating to corporations for the construction of Union Depots.

Section 1. Be it enacted by the Legislature of the State of Texas: That Articles 744a and 744b, of the Revised Civil Statutes of the State of Texas of 1895, be and the same are hereby amended so as hereafter to read as follows:

Article 744a. Corporations may be formed for the purpose of acquiring, owning, maintaining, and operating, union passenger depots in any city or town into which any two or more railroad companies may own or operate a railroad.

Such corporations may be formed in the manner provided in Title 21 of the Revised Civil Statutes of the State of Texas; and such corporations shall have power and authority to acquire, own or lease, maintain and operate railroad tracks in any city or town for the purpose of enabling railroad companies to run their trains to and from the union depot, such tracks not to extend to a greater distance than three miles from such union depot; and such corporations may also add additional stories to their depot buildings, and rent the same for offices, or other purposes; and may also provide on their property, buildings for express purposes, and rent the same to express companies; provided, that the Railroad Commission of Texas shall have the same supervision and control over said railroads and tariff rates and depots that it has over any other lines of railroad and depot buildings in this State.

Sec. 2. Article 744b. The provisions of Chapter 14, Title XCIV, of the Revised Civil Statutes of the State of Texas, shall govern and control the issuance of stock and bonds of such companies, as far as the same are applicable. Railway companies existing under the laws of this State, whether under general or special law, and railway companies incorporated under any general or special law of the United States, are au-

thorized and empowered to subscribe to the stock and purchase and own stock and bonds of any depot company formed under the authority of this act.

Sec. 3. The fact that there are no adequate provisions of law under which the purposes of this act can be accomplished, and the fact that the construction of union depots, which are now greatly needed, would probably be secured by the prompt passage of this act, creates an imperative public necessity and emergency, justifying a suspension of the constitutional rule requiring bills to be read on three several days, and it is so suspended, and that this act shall take effect from and after its passage, and it is so enacted.

[Note.—The foregoing act passed the House by a two-thirds vote, yeas, 93, nays 1; and passed the senate by a two-thirds vote, yeas, 22, nays 1.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Wednesday, the seventeenth day of March, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signautre.—J. W. Madden, Secretary of State.]

S. B. No. 2.]

CHAPTER 43.

An act to amend Articles 5139 and 5152 of the Revised Civil Statutes of the State of Texas, adopted at the regular session of the Twenty-fourth Legislature, relating to the assessment and collection of taxes on lands in unorganized counties belonging to non-residents, and to add thereto Article 5152a.

Section 1. Be it enacted by the Legislature of the State of Texas: That Articles 5139 and 5152 of the Revised Civil Statutes of the State of Texas, adopted at the regular session of the Twenty-fourth Legislature, be and the same are hereby amended, and a new article to be known as Article 5152a added, so as hereafter to read as follows:

Article 5139. The Comptroller of the State is authorized, empowered, and required, to assess and collect the State and county taxes on all lands in this State which are situated in unorganized counties thereof and owned by non-residents thereof, in the manner hereinafter provided.

Article 5152. All county taxes, other than taxes to pay pro rata of indebtedness to parent county, due unorganized counties, collected by the Comptroller, shall be kept by him to the credit of such unorganized county until the total sum to the credit of the county shall reach the sum of \$5000. Then he shall, upon the demand of the treasurer of the former unorganized county, when the same shall have organized, pay said sum, or whatever amount is held to the credit of said county, over to said Treasurer. And all county taxes collected by the Comptroller after the amount to the credit of such unorganized county shall reach the amount of \$5000, shall be paid into the county treasurer of the organized county to which the unorganized county is attached for judicial purposes.

Article 5152a. Where the amount to the credit of any unorganized county now exceeds \$5000, the Comptroller shall keep said sum to be paid to the treasurer of such unorganized county when the same shall organize; and all county taxes, other than taxes collected to pay pro rata of indebtedness to parent county, hereafter collected by the Comptroller in such counties, shall be paid into the county treasury of the organized county to which such county is attached for judicial purposes.

Sec. 2. That all laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed; and there being no law authorizing the collection of county taxes from non-residents of unorganized counties, nor any law to make available such taxes within the time and for the purposes for which they were levied and collected, an emergency and an imperative public necessity exist wherefore the rule requiring bills to be read on three several days should be suspended, and this act should take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act passed the Senate by a two-thirds vote, yeas 23, (nays not given); and having passed the House, with amendments, by a two-thirds vote, yeas 86, nays none, was returned to the Senate, and the Senate concurred in said amendments (vote not given).]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Thursday, the eighteenth day of March, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

H. B. No. 438.]

CHAPTER 44.

An act to prescribe the time of holding the terms of the District Court in the 25th Judicial District of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas: That the terms of the District Court of the 25th Judicial District of Texas shall be held on and after July 1, 1897: In Gonzales county, on the first Monday in January and July of each year, and may continue in session six weeks. In Colorado County, on the first Monday in March and September of each year, and may continue in session four weeks. In Lavaca County, on the first Monday in April and October of each year, and may continue in session four weeks. In Guadalupe County, on the first Monday in May and November of each year, and may continue in session four weeks. In Wilson County, on the first Monday in June and December of each year, and may continue in session four weeks.

Sec. 2. That all process and writs heretofore issued or which may be issued up to the time this act takes effect by or from the District Court of said counties, and made returnable to the terms of said court as now fixed by law, shall be returnable to the next ensuing term of said courts as prescribed by this act, and all such writs and process are hereby legalized

and validated as if the same had been made returnable to the term of said courts as fixed by this act.

Sec. 3. The fact that these courts will meet in less than ninety days after the adjournment of the Legislature, creates an imperative public necessity and an emergency that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act passed the House by a two-thirds vote, yeas 93, nays none; and passed the Senate by a two-thirds vote, yeas 21, nays none.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Friday, the nineteenth day of March, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

H. B. No. 396.]

CHAPTER 45.

An act to amend Article 616a, of the Revised Statutes of the State of Texas, of 1895, relating to the formation of independent school districts, and prohibiting towns within such districts from assuming control of the schools therein while the independent district exists, and to validate certain independent school districts heretofore organized.

Section 1. Be it enacted by the Legislature of the State of Texas: That Article 616a, of the Revised Statutes of the State of Texas, of 1895, be amended so that it shall hereafter read as follows:

Article 616a. Towns and villages authorized to incorporate under this Chapter, or having two hundred inhabitants or over, may form an incorporation for (free) school purposes only, which may include within its bounds a town or village incorporated for municipal purposes, the same not having assumed control of the public schools within its limits; provided, that the territory so incorporated for (free) school purposes shall not exceed an area of twenty-five square miles; and when so desiring, an election may be held under the provisions of this title and chapter, and if, at such election, a majority of the votes cast be in favor of the incorporation, it shall be the duty of the county judge to make return thereof, and cause a record of the result of such election to be made, the same as provided for by Articles 585 and 586 of this chapter; upon which entry being made, such town or village shall be regarded as duly incorporated for the purpose of establishing and maintaining free schools therein, and shall, upon notice to the State board of education by the board of trustees hereinafter provided for, receive such pro rata share of the available school fund as its scholastic population may entitle it to. And provided, also, that all school incorporations hereafter formed under the provisions of this act shall have the right to levy and collect taxes and issue bonds for school purposes, the same as school incorporations heretofore formed.

When a town or a village is included in a corporation for (free) school purposes, and such town or village shall afterwards be incorporated for

municipal purposes, it shall not thereby acquire a right to take the control of the schools within its limits out of the hands of the school corporation.

Sec. 2. Independent school districts heretofore organized which have not the required population in the town proper, but have such population in the whole independent district, shall be validated by this act.

Sec. 3. All laws and parts of laws, general or special, in conflict with the provisions of this act, are hereby repealed.

Sec. 4. The fact that several independent school districts are affected by this act, and as the time for holding elections of trustees is near at hand, creates an imperative necessity requiring the suspension of the constitutional rule providing that bills be read on three several days, and that this act take effect from and after its passage, and it is so enacted.

[Note.—The foregoing act passed the House by a two-thirds vote, yeas 92, nays none; and passed the Senate by a two-thirds vote, yeas 21, nays none.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Friday, the nineteenth day of March, A. D. 1897, but was not signed by him nor returned to the House in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

H. B. No. 7.]

CHAPTER 46.

An act to prevent the payment of any deficiency that may arise in any department of State Government or institutions of this State, unless an estimate of the same shall have been made out, sworn to, and presented to and approved by the Governor, and filed with the Comptroller, at least thirty days before such deficiency occurs.

Section 1. Be it enacted by the Legislature of the State of Texas: That all Heads of Departments, Managers of State Institutions, or other persons intrusted with the power or duty of contracting for supplies or in any manner pledging the credit of the State for any deficiency that may arise under their management or control, shall, at least thirty days before such deficiency shall occur, make out a sworn estimate of the amount necessary to cover such deficiency until the meeting of the next Legislature. Such estimate shall be filed with the Governor of the State, who shall carefully examine the same and approve the whole or any part thereof, and when approved, shall file the same with the Comptroller, and no claims shall be allowed by the Comptroller, or paid by the Treasurer unless such estimate has been filed and approved as aforesaid: Provided, that the provisions of this act shall not apply to fees and dues for which the State of Texas may be liable under the general law.

Sec. 2. Provided, further, when any injury or damage shall occur to any public property from flood, storm, or any unavoidable cause, the estimate may be filed at once, but must be approved by the Governor as provided in Section 1 of this bill.

All laws and parts of laws in conflict with this act are hereby repealed, and this law shall take effect and be in force from and after its passage.

Sec. 3. The fact that there is now no law on the statutes of this State preventing the useless expenditure of public funds in this manner, and the further fact that this session is drawing to a close, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended and this act take effect from and after its passage, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Friday, the nineteenth day of March, A. D. 1897, but was not signed by him nor returned to the House in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

Takes effect ninety days after adjournment.

S. B. No. 152.]

CHAPTER 47.

An act to amend the Collin, Grayson, Williamson, Lamar, and Bell County, road laws, said law passed by the 23rd Legislature, by amending Section 10, in regard to the payment of commissioners when acting as road commissioners.

Section 1. Be it enacted by the Legislature of the State of Texas: That Section 10, as described in the caption of this act, shall hereafter read as follows:

Section 10. Each county commissioner, when acting as road commissioner and performing the duties imposed upon him by law, or by the Commissioners' Court, shall be entitled to two dollars per day for the services actually performed; provided, that he shall not receive more than ninety dollars per quarter, which amount shall be paid out of the road and bridge fund when the account shall have been approved by the Commissioners' Court; and the court shall not approve said account unless the commissioner presenting it shall sign an oath that the account is just, due, and unpaid, and specifying the number of days' work actually performed by him, and that it was necessary to be done; and no commissioner shall be entitled to pay as road commissioner while he is performing the duties of a county commissioner.

Sec. 2. Be it further enacted, That all laws and parts of laws in conflict with this act are hereby repealed.

Sec. 3. Owing to the crowded condition of the calendar and the improbability of reaching the bill before adjournment of the Legislature creates an emergency and imperative necessity that the constitutional rule requiring bills to be read on three several days be suspended and that this bill be placed on its third reading, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Thursday, the eighteenth day of March, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

Takes effect 90 days after adjournment.

S. B. No. 144.]

CHAPTER 48.

An act to amend Article 749c of Chapter 18, of Title XXI, of the Revised Civil Statutes, restricting land holdings of certain corporations.

Section 1. Be it enacted by the Legislature of the State of Texas: That Article 749c, of Chapter 18, of Title XXI, of the Revised Civil Statutes of the State of Texas, be amended so as to read as follows:

Article 749c. All private corporations authorized by the laws of Texas, as provided in Article 642, to do business in this State, whose main purpose is not the acquisition or ownership of lands, as mentioned in the preceding articles, which have, heretofore, or may, hereafter, acquire, by lease, purchase, or otherwise, more land than is necessary to enable them to carry on their business, shall, within fifteen years from the time this law takes effect, or the date said land may be hereafter acquired in good faith, sell and convey in fee simple all lands so acquired, and which are not necessary for the transaction of their business. And no private corporation shall be permitted to purchase any land under the provisions of this and the preceding articles, unless the lands so purchased are necessary to enable such corporation to do business in this State, or except where such land is purchased in due course of business, to secure the payment of debt; provided, however, that nothing in this law shall be construed to prohibit the lease, purchase, sale, or subdivision of real property within incorporated towns, cities, or villages, and their suburbs, not extending more than two miles beyond their corporate limits, by corporations whose charters authorize them to lease, purchase, sell, and subdivide, real estate, within towns, cities, and villages, and their suburbs, whether their suburbs be stated to be measured from the limits, merely, or the corporate limits, of such towns, cities, and villages; and provided, further, that all such corporations now existing, or which may be hereafter created, shall be authorized to lease, sell, or subdivide real property in any unincorporated city, town, or village, or the suburbs thereof, within this State; provided, if there be a court house in such city, town, or village, such lease, sale, or subdivision, may extend two miles in any direction from such court house. If there be a depot or depots, and no court house, then, the two miles shall be measured from the depot nearest the center of such city, town, or village; and in case there be neither court house nor depot, then, the two miles shall be measured from the center of such city, town, or village.

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Thursday, the eighteenth day of March, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

Takes effect 90 days after adjournment.

H. B. No. 41.]

CHAPTER 49.

An act to amend Article 2979, of Chapter 4, Title 55, of the Revised Statutes of the State of Texas, relating to divorce, so as to make husband and wife competent witnesses, and to repeal all laws in conflict herewith.

Section 1. Be it enacted by the Legislature of the State of Texas: That Article 2979, of Chapter 4, Title 55, of the Revised Statutes of the State of Texas, relating to divorce, be and the same is hereby amended so as to read hereafter as follows, to-wit:

Article 2979. In all suits and proceedings for divorce from the bonds of matrimony, the defendant shall not be compelled to answer upon oath, nor shall the petition be taken as confessed for want of answer, but the decree of the court shall be rendered upon full and satisfactory evidence, upon the verdict of a jury, if a jury shall have been demanded by either party, and if not, upon the judgment of the court affirming the material facts alleged in the petition. In all such suits and proceedings the husband and wife shall be competent witnesses for and against each other, but neither party shall be compelled to testify as to any matter that will criminate himself or herself, and where the husband or wife testifies, the court or jury trying the case shall determine the credibility of such witness, and the weight to be given such testimony; but no divorce shall be granted upon the evidence of either husband or wife, if there be any collusion between them.

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Friday, the nineteenth day of March, A. D. 1897, but was not signed by him nor returned to the House in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

Takes effect 90 days after adjournment.

S. B. No. 171.]

CHAPTER 50.

An act to amend Article 3582a, Title LXXV.A, of the Revised Civil Statutes, in regard to the Board of Pardon Advisers.

Section 1. Be it enacted by the Legislature of the State of Texas: That Article 3582a, as described in the caption of this act, be amended so as to hereafter read as follows, viz:

Article 3582a. The governor is hereby authorized to call to his aid for a time not exceeding three hundred working days per annum, two qualified voters of this State, who shall perform such duties as may be directed by him, consistent with the Constitution, as he may deem necessary in disposing of all applications for pardon. The said two voters shall be known as the Board of Pardon Advisers, and shall be paid out of any money in the State Treasury not otherwise appropriated, four dollars each per day they may so serve, on vouchers approved by the Governor.

Sec. 2. That all laws and parts of laws in conflict with this act, be, and the same are hereby repealed.

Sec. 3. The importance of the legislation proposed in this bill, and the crowded condition of the calendar and the near approach of the close of the session, create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read upon three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved April 3, 1897.

[Note.—The foregoing act passed the senate (vote not given); and passed the House by a two-thirds vote, yeas 91. nays 19.]

H. B. No. 633.]

CHAPTER 51.

An act to amend Section Forty Two of Article Twenty Two of the Revised Civil Statutes of the State of Texas, adopted and approved May 5th, 1895, providing for the reorganization of the Forty-Second Judicial District and to fix the time of holding court therein.

Section 1. Be it enacted by the Legislature of the State of Texas: That Section Forty Two of Article Twenty Two of the Revised Civil Statutes of the State of Texas, be so amended as hereafter to read as follows:

Section 2. The Forty-second Judicial District of the State of Texas, shall be composed of the counties of Comanche, Taylor, Jones, Callahan, Shackelford, Stephens, and Eastland, and the terms of the District Court shall be held annually therein, as follows:

In the County of Comanche on the first Monday in February and the third Monday in August, and may continue in session four weeks. In the County of Taylor on the fourth Monday after the first Monday in February, and the sixth Monday after the first Monday in August, and may continue in session four weeks. In the county of Jones on the eighth Monday after the first Monday in February, and the tenth Monday after the first Monday in August, and may continue in session two weeks. In the County of Callahan on the tenth Monday after the first Monday in February, and the twelfth Monday after the first Monday in August, and may continue in session three weeks. In the County of Shackelford on the thirteenth Monday after the first Monday in February, and the fifteenth Monday after the first Monday in August, and may continue in session two weeks. In the County of Stephens on the fifteenth Monday after the first Monday in February, and the seventeenth Monday after the first Monday in August, and may continue in session three weeks. In the County of Eastland on the eighteenth Monday after the first Monday in February, and the twentieth Monday after the first Monday in August, and may continue in session until the business is disposed of; provided, that the length of the term does not interfere with the terms of court in the other counties as is herein above fixed.

Sec. 3. All writs and process returnable to the District Courts, as heretofore fixed in the several counties affected by this act, shall be as valid and binding as if no change had been made.

Sec. 4. All laws and parts of laws in conflict with this act, be and the same are hereby repealed.

Sec. 5. Whereas, the interests of the people in this district are materially benefited by this act, and the crowded condition of the calendar, and the near approach of the close of this Legislature, creates an emergency and a public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and this act take effect and be in force from and after its passage, and it is so enacted.

Approved April 3, 1897.

[Note.—The foregoing act passed the House by a two-thirds vote, yeas 86, nays none; and passed the Senate by a two-thirds vote, yeas 23, nays none.]

S. B. No. 30.]

CHAPTER 52.

An act to enable the Railroad Commission of Texas to make emergency freight rates to prevent the evil effects of inter-state rate wars upon the business and interests of the people and railroads of this State.

Section 1. Be it enacted by the Legislature of the State of Texas: That in addition to the powers conferred on the Railroad Commission of Texas by Articles 4563 and 4567 of the Revised Statutes of this State, said Commission shall have power, when deemed by it necessary, to stop or prevent inter-state rate wars and injury to the business or interests of the people or railroads of this State, or in case of any other emergency, to be judged of by the Commission; and it shall be its duty, after three days' notice to the roads interested, to alter, amend, or suspend any existing freight rate on any railroad in this State, or to fix freight rates where none exist.

Sec. 2. That said emergency rates, so made by the Commission, shall apply on any one or more of all the railroads in this State, or part of railroads, as may be directed by the Commission.

Sec. 3. That said rates, so made, shall take effect at such time, and remain in force for such length of time as may be prescribed by the Commission.

Sec. 4. Whereas, there is no law of this State by which the evil effects of rate wars on inter-state railroads leading into this State can be prevented, a public necessity and emergency exists for the suspension of the constitutional rule requiring bills to be read on three several days in each house, and that this act shall take immediate effect, said constitutional rule is hereby suspended, and this act shall take effect and be in force from and after its passage.

Approved April 5, 1897.

[Note.—The foregoing act passed the Senate, yeas and nays not given; and passed the House, yeas and nays not given.]

S. B. No. 75.]

CHAPTER 53.

An act to validate all office forfeitures of lands heretofore made by the Commissioner of the General Land Office for the non-payment of any part of the interest due thereon, which land has been heretofore sold by the State through any of its authorized agencies, and without reference to the date when, or the acts of the Legislature under which said sales were made.

Section 1. Be it enacted by the Legislature of the State of Texas: That all forfeitures of public land, university land, public school land, or land set apart to any of the various State institutions, which have been heretofore sold under any of the various acts of the Legislature, and the forfeitures made by the Commissioner of the General Land Office for non-payment of any part of the interest due thereon, and without judicial ascertainment, shall be and the same are hereby in all things made valid; provided, that such purchaser shall have the right at any time within six months after the passage of this act, and not afterward, to institute suit in the District Court of Travis County against the Commissioner of the General Land Office to set aside such forfeiture, upon the ground that the facts did not exist authorizing such forfeiture, and such forfeiture shall be a full liquidation of all claims of the State against such purchaser.

Sec. 2. The fact that many tracts of land have been forfeited by the Land Commissioner, and that his authority so to do has been questioned, creates an emergency and imperative public necessity for the suspension of the constitutional rule requiring bills to be read on three several days, is hereby suspended, and that this act take effect from and after its passage, and it is so enacted.

[Note.—The foregoing act passed the Senate by a two-thirds vote, yeas 21, nays none; and being amended in the House, passed the same by a two-thirds vote, yeas 91, nays 7; and the Senate concurred in said amendments (vote not given).]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Tuesday, the twenty-third day of March, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

Takes effect 90 days after adjournment.

S. B. No. 15.]

CHAPTER 54.

An act to amend Article 2601, Chapter 6, Title 51, of the Revised Civil Statutes of the State of Texas, relating to bonds of guardians, and sureties thereon.

Section 1. Be it enacted by the Legislature of the State of Texas: That Article 2601, Chapter 6, Title 51, of the Revised Civil Statutes of the State of Texas be amended so as to hereafter read as follows:

Article 2601. Any bond required by the provisions of this chapter to be given by a guardian shall be subscribed by such guardian, and by at

least two good and sufficient sureties, to be approved by the County Judge of the county in which the guardianship is pending; provided, that such bond may be made by corporations organized or created under the laws of this State for the purpose of issuing surety, guarantee or indemnity bonds, guaranteeing the fidelity of the executors, administrators, and guardians, and may be accepted by the County Judge.

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Tuesday, the twenty-third day of March, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

Takes effect ninety days after adjournment.

S. B. No. 251.]

CHAPTER 55.

An act to prohibit in certain cases the gathering of pecan nuts, and the cutting, injuring or destroying of pecan trees, and prescribing a penalty therefor.

Section 1. Be it enacted by the Legislature of the State of Texas: Any person who shall, hereafter, gather any pecan nuts upon enclosed land not owned leased or controlled by him, unless it be made to appear in defense that it was done by the consent of the owner, lessor, or person in control, or any person who shall cut, destroy, or injure any pecan timber upon lands not his own unless it be made to appear in defense that it was done with the consent of the owner thereof, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than five dollars, and not more than three hundred dollars, or by imprisonment in the county jail not more than three months, or by both such fine and imprisonment.

Sec. 2. The fact that the pecan industry is now seriously suffering from, and its existence jeopardized by wanton and reckless destruction of pecan trees by others than their owners, creates an imperative public necessity that the rule requiring bills to be read on three several days be suspended, and that this act take effect from and after its passage, and it is so enacted.

[Note.—The foregoing act passed the Senate, yeas and nays not given; and passed the House, yeas and nays not given.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Tuesday, the twenty-third day of March, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

H. B. No. 548.]

CHAPTER 56.

An act to create a more efficient road system for Wise County, Texas, and making County Commissioners of said County ex-officio road Commissioners, and prescribing their duties as such, and providing for their compensation as road commissioners, and defining the duties and powers of such county commissioners, and providing for the appointment of road overseers, and defining their duties, and for the working of county convicts upon the public roads of said county, and providing officers' fees, and to provide for the payment for teams to work on roads and allowance for time of service for same on public roads in Wise County, and fixing penalty for violation of this act, and repeal all laws in conflict with this act, as to Wise County.

Section 1. Be it enacted by the Legislature of the State of Texas: That each member of the Commissioners' Court of Wise County shall be ex officio road commissioners of their respective districts, and under the direction of the Commissioners' Court of said county, shall have charge of all teams, tools, and implements belonging to said county and placed in their hands by said court, and it shall be their duty under such rules and regulations as the Commissioners' Court may prescribe, to superintend the laying out of new roads, the making or changing of roads, and the building of bridges. Each of the commissioners shall, before entering upon the duties of his office, execute a bond of seven hundred dollars, with two or more good and sufficient sureties, payable to the County Judge, or his successor, of said county, for the use and benefit of the road and bridge fund, conditioned that they will perform all the duties required of them by law, or by the Commissioners' Court, and that they will account for all property belonging to the county that may come into their possession, that with the consent of the Commissioners' Court, any one of said commissioners shall be allowed to appoint any competent person as deputy road commissioner, who shall be required to execute the same bond that is required of commissioners in this section, and such deputy road commissioner shall receive any amount agreed upon by the Commissioners' Court, not to exceed two dollars per day. Provided: that county commissioners shall not be allowed any compensation as road commissioners, when a deputy road commissioner has been appointed.

Sec. 2. The Commissioners' Court of said county shall have full power and authority, and it shall be their duty, to adopt such system for working, laying out, draining and repairing the public roads in said county as they may deem best, and from time to time said court may change its plans or system of working said roads: Said court shall have power to purchase such teams, tools, and implements as may be necessary for the working of said roads; such court shall have the power to construct, grade, or otherwise improve any road or bridge, by contract; in such case said court, or the County Judge, by the authority of the Commissioners' Court, may advertise in such manner as the court may determine, for bids to do such work, and the contract shall be awarded to the lowest responsible bidder, who shall enter into bond payable to the County Judge and his successor in office of said county, for the use of the road and bridge fund, with good and sufficient sureties, to be approved by said court, and in such sum as said court may determine, for the faithful compliance with the terms of said contract, but the court shall reserve

the right to reject any and all bids. At the time of making the said contract, the Commissioners' Court shall direct the county treasurer to place the amount to a particular fund for that purpose, and the treasurer shall keep a separate account of such fund, and the same shall not be used for any other purpose, and can only be paid out on the order of said court, and the said court shall have the power to employ any hands or teams to work on the roads in said county under such regulations and for such prices as they may deem it to the best interest of said county, not to exceed two dollars and fifty cents per day of ten hours per day, for a team and driver, and not to exceed one dollar and twenty-five cents per day for day hands; and no road hand when working out his time on the road shall be required to work but eight hours per day, but when hands are hired by the day they shall be required to work ten hours per day.

Sec. 3. The commissioners of said county may require all county convicts of said county not otherwise employed, to labor on the public roads, under such regulations as said court may prescribe, and each convict so worked shall receive a credit of fifty cents, on his fine first, then on the cost, for each day that he may labor. The commissioners may at a regular term allow to the officers such amount of their cost for the arrest and conviction of said convict as it may deem best: provided, that it shall not allow to any officer an amount greater than the following: The County Attorney, five dollars, including commissions: County Clerk and Justice of the Peace, one dollar and seventy cents, sheriffs or Constable, two dollars: which amount shall be paid out of the road and bridge fund on the warrant allowed by the Commissioners' Court, when said fine and cost shall have been worked out as provided for in this section: Provided, that this shall not be construed so as to relieve any convict from the payment of all costs for which he would be liable under the general laws of this State. The Commissioners' Court may grant a reasonable commutation of time for which a convict is committed as a reward for good behavior and faithful service: Provided, that such commutation shall in no case exceed one-tenth of the whole time. The Commissioners' Court may provide the necessary houses, prisons, clothing, bedding, food, medicine, medical attention and guards for the safe and humane treatment of convicts.

Sec. 4. It shall be the duty of the county commissioners, when acting as road commissioners, to inform themselves of the condition of the public roads in their districts, and shall determine what character of work shall be done upon said roads, and shall direct the manner of grading, draining or otherwise improving the same, which direction shall be observed and obeyed by all overseers of his district.

Sec. 5. The commissioners may require each road overseer in his district to call out the hands in such number as may be sufficient to perform the work necessary: Provided, no road hand shall be required to work more than five days in any one year, and Provided, that all road hands in a particular district shall as far as practicable be worked a uniform time. Each road overseer shall have full control of all road hands within his road district, and he shall see that each hand when called out shall perform a good day's work, and if any hand so called out shall fail or refuse to perform a good day's work, or to work in the manner the overseer may

direct, he shall be liable to the same penalty as if he had failed to appear in obedience to the summons. The Commissioners' Court may allow any overseer who shall be engaged in the discharge of the duties of his office for more than five days during any one year, a compensation not to exceed one dollar per day for the time he may serve over five days.

Sec. 6. Every person liable to work on public roads in Wise County who shall pay to his road overseer at any time before the day appointed to work on his road the sum of one dollar for each day that he is summoned to work shall be excused from work for each day paid for.

Sec. 7. Each person summoned to work on a road shall take with him an axe, hoe, pick, spade, or such tool as he is desired and directed by the overseer, or if he has no such tool as may be desired and directed by the overseer to take with him, he shall take such other suitable tool as he may have; and any person furnishing a team to work on the county roads of Wise County shall receive a credit of two days work for each day that said team shall be furnished. The county shall be liable for, and the Commissioners' Court, under such regulations as they prescribe, shall pay for all damage done to tools while being used on said roads for public road work, not caused by the negligence of the party furnishing the same.

Sec. 8. If any person liable to work upon the public roads, after being legally summoned, shall intentionally fail or refuse to attend either in person or by able and competent substitute, or fail or refuse to furnish his tools at the time and place designated by the person summoning him, or to pay to the overseer such sum as one dollar per day for each day summoned to work, he shall be deemed guilty of a misdemeanor, and on conviction thereof he shall be fined in any sum not to exceed ten dollars.

Sec. 9. At the regular term in November of the Commissioners' Court, each year, all road overseers of Wise County shall make their report and forms to be furnished them by the Commissioners' Court; said reports shall state the condition of their roads, number of hands and the name of each hand subject to road work, and the number of days that each hand has worked, amount of all money collected and expended; and if there is a balance on hand, it shall be turned over to his successor in office, to be paid out for work on said road; said report shall be sworn to before some officer authorized to administer oaths; said reports shall be examined by the Commissioners' Court, and if they be found correct, shall be approved by said court, and as soon thereafter as practicable, the same court shall appoint and commission road overseers for the succeeding year. Any overseer intentionally failing to perform his duties as such overseer, or failing or refusing to make his report as required by law, or failing or refusing to serve and perform the duties of overseer when appointed by said court, or failing to comply with the law in any way concerning his duties as overseer, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than ten nor more than twenty-five dollars.

Sec. 10. Whenever it shall be necessary to occupy any land for the opening, widening, straightening, or draining any road or part thereof, if the owner of said land can not agree with the court as to damages to be paid, the court may proceed to condemn the same in the same manner that a railroad company can condemn land for right of way, and the same proceedings may be had and the same right exist to each party that would

exist if the proceedings were by a railroad company, except that the county shall in no case be required to give bond.

Sec. 11. Each county commissioner when acting as road commissioner shall be entitled to two dollars per day for services actually performed: Provided, that he shall not receive more than one hundred and fifty dollars for any one year, said amount to be paid out of the road and bridge fund, when the account shall have been approved by the Commissioners' Court, and the court shall not approve said account unless the commissioner presenting it shall sign an oath, that the account is just, due, and unpaid, and said account shall specify the number of days work actually performed by him; and no commissioner shall be entitled to pay as road commissioner for the days that he is performing the duties of county commissioner, nor shall he be allowed pay for any other road service, except as herein provided for, neither shall he be required to inspect the roads as heretofore provided by law.

Sec. 12. This act shall be cumulative of all general laws on this subject and be taken notice of by all courts in the same manner as the general laws of the State on the subject of roads and bridges, when not in conflict therewith, but in case of conflict, this act shall control as to Wise County, and all laws conflicting herewith are hereby repealed.

Sec. 13. The fact that a more efficient road law is needed, creates an emergency and imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act passed the House by a two-thirds vote, yeas 90, nays none; and passed the Senate by a two-thirds vote, yeas 24, nays none.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Tuesday, the twenty-third day of March, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

S. B. No. 236.]

CHAPTER 57.

An act to amend Article 22, Title 4, of the Revised Civil Statutes of the State of Texas (1895), so as to extend the terms of the District Court in Orange and Jefferson Counties.

Section 1. Be it enacted by the Legislature of the State of Texas. That Article 22, Title 4, of the Revised Statutes of the State of Texas of 1895, be so amended as hereafter to read as follows:

Article 22. The first judicial district shall be composed of the counties of Jasper, Newton, Orange, Jefferson and Tyler, and the District Court therein shall be held as follows:

In the county of Jasper on the first Monday in March and September, and may continue in session for three (3) weeks; in the county of Newton on the third Monday after the first Monday in March and Septem-

ber, and may continue in session for three (3) weeks; in the county of Orange on the sixth Monday after the first Monday in March and September, and may continue in session five (5) weeks; in the county of Jefferson on the eleventh Monday after the first Monday in March and September, and may continue in session six (6) weeks; in the county of Tyler on the seventeenth Monday after the first Monday in March and September, and may continue in session until business is disposed of.

Sec. 2. That all process and writs heretofore issued or which may be issued up to the time this act takes effect, by or from the District Court of said counties, and made returnable to the terms of said court as now fixed by law, shall be returnable to the next ensuing term of said courts as prescribed by this act, and all such writs and processes are hereby legalized and validated as if the same had been made returnable to the term of said courts as fixed by this act.

Sec. 3. Whereas, the time now allowed for the terms of the District Court in Orange and Jefferson counties is not sufficient, and by reason thereof the dockets of said court are crowded with work undisposed of, renders it necessary and creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended and that this act take effect and be in force from and after its passage, and said rule is hereby suspended, and it is so enacted.

[Note.—The foregoing act passed the Senate by a two-thirds vote, yeas 21, nays 1; and having passed the House with amendment (vote not given), the Senate concurred in House amendment (vote not given).]

[Note.—The foregoing act was presented to the Governor of Texas for his approval on Tuesday, the twenty-third day of March, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

S. B. No. 16.]

CHAPTER 58.

An act to amend Article 1942, Chapter 8, Title 39, of the Revised Civil Statutes of the State of Texas, of 1895, relating to bonds of administrators and executors and sureties thereon.

Section 1. Be it enacted by the Legislature of the State of Texas: That Article 1942, Chapter 8, Title 39, of the Revised Civil Statutes of the State of Texas, be so amended as hereafter to read as follows:

Article 1942. Before the issuance of letters testamentary or of administration the person to whom letters are granted shall enter into bond with at least two good and sufficient sureties, who shall be bona fide residents of this State, to be approved by and payable to the County Judge of the county, in such penalty as he may direct, not less than double the estimated value of the estate of the testator or intestate, except in the case of temporary administrator, when the bond shall be in such sum as the county judge may direct; provided, that such bond may be made by any corporation or corporations organized or created under the laws of

this State, or foreign corporations permitted to do business in this State, for the purpose of issuing surety, guaranty, or indemnity bonds guaranteeing the fidelity of executors, administrators and guardians, and may be accepted by the County Judge.

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Tuesday, the twenty-third day of March, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

Takes effect ninety days after adjournment.

S. B. No. 246.]

CHAPTER 59.

An act to validate the incorporation of cities or towns of one thousand inhabitants or over, incorporated since March 30th, 1895, which have heretofore attempted to be made under certain conditions.

Section 1. Be it enacted by the Legislature of the State of Texas: That all cities or towns of one thousand inhabitants or over, incorporated since March 30th, 1895, which have heretofore attempted to accept the provisions of Chapter 1, Title 18, of the Revised Civil Statutes, and which have attempted to be incorporated under the provisions of said general law, but which said attempted incorporation is invalid by reason of the failure of said cities or towns to comply with all the requirements of the law relating to the incorporation of towns or villages, but which said cities or towns have from and after the dates of their several efforts to accept the provisions of law relating to the incorporation of cities or towns of one thousand inhabitants or over, exercised the functions of cities or towns of the class named, and been recognized as such cities or towns, be and are hereby declared to be cities of one thousand inhabitants or over, and their incorporation as such is hereby in all things validated; Provided, that nothing in this act shall be held to validate the incorporation of cities or towns that had less than one thousand inhabitants at the time of their attempted incorporation as such cities or towns of one thousand inhabitants or over.

Sec. 2. Whereas, the close of the 25th Legislature is near at hand, therefore an emergency and an imperative public necessity exists for the suspension of the constitutional rule requiring bills to be read on three several days, and the same is hereby suspended, and this act take effect from and after its passage, and it is so enacted.

[Note.—The foregoing act passed the Senate (vote not given); and passed the House by a two-thirds vote, yeas 106, nays 1.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Tuesday, the twenty-third day of March, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

S. B. No. 227.]

CHAPTER 60.

An act to create a more efficient road system for McLennan County, Texas, and making county commissioners of said county ex officio road commissioners, and prescribing their duties as such and providing for their compensation as road commissioners, and defining the powers and duties of such county commissioners, and providing for the appointment of road overseers and defining their duties, and for the working of county convicts on the public roads of said county, and providing for officers' fees, and rewards and penalties for said convicts, and rewards for the capture of escaped convicts, and to provide for the manner and training and maintaining hedges along all public roads, and to provide for the summoning of teams for road work, and for an allowance for time of road service for the same, and fixing a penalty for a violation of this act, and to repeal all laws in conflict herewith.

Section 1. Be it enacted by the Legislature of the State of Texas: That the members of the Commissioners' Court of McLennan County shall be ex officio road commissioners of their respective districts, and under the direction of the Commissioners' Court shall have charge of all the teams, tools, and machinery belonging to the county and placed in their hands by said county, and it shall be their duty, under such rules and regulations as the Commissioners' Court may prescribe, to superintend said laying out of new roads and the building of bridges. Each of said commissioners shall, before entering upon the duties of his office, in addition to his regular bond as such county commissioner, execute a bond of one thousand dollars, with two or more good and sufficient sureties, payable to the County Judge of said county for the use and benefit of the road and bridge fund, conditioned that they will perform all the duties required of them by law, or by the Commissioners' Court, and that they will account for all money or property belonging to the county that may come into their possession.

Sec. 2. The Commissioners' Court of said county shall have full power and authority, and it shall be its duty, to adopt such system of working, laying out, draining, and repairing the public roads in said county as it may deem best, and from time to time said court may change its plan or system of working.

Said Commissioners' Court shall have power to purchase such teams, tools, and machinery as may be necessary for the working of its roads. Said court shall have the power to construct, grade, or otherwise improve any road or bridge by contract. In such case said court, if they deem it necessary, or the County Judge, may advertise in such manner as the court may determine for bids to do such work, and the contract shall be awarded to the lowest responsible bidder, who shall enter into bond, payable to the County Judge of said county for the use of the road and bridge fund, with good and sufficient sureties, to be approved by said court, and in such sum as said court may determine, for the faithful compliance with the terms of said contract; but said court shall have the right to reject any and all bids. The said court shall have authority to employ any hands or teams to work on the roads, under such regulations and for such price as they may deem best.

Sec. 3. The Commissioners' Court of said county shall require all county convicts, not otherwise employed, to labor upon the public roads under such regulations as they may prescribe, and each convict so worked shall receive a credit of fifty cents on his fine and costs for each day he

may so labor. Such Commissioners' Court may provide such reasonable regulations and punishments as may be necessary to require such convicts to perform good work; and may provide a reward not exceeding ten dollars, to be paid out of the road and bridge fund, for the recapture and delivery of any escaped convict, to be paid to any person other than the guard or person in charge of such convict at the time of his escape, which reward shall be taxed against such convict and worked out or paid by him as a part of the cost. The commissioners may grant a reasonable commutation of time for which a convict is committed as a reward for faithful services and good behavior, in no case to exceed one-tenth of the whole time. Said court may provide the necessary houses, prisons, clothing, bedding, food, medicine, medical attention, and guards, for the safe and humane keeping of convicts. The Commissioners' Court may, at a regular term, allow to the officers such amount of their cost for the arrest and conviction of said convict as it may deem best; provided, that it shall not allow to any officer a greater amount than he is now or may hereafter be allowed by general laws; provided, that this shall not be construed as to relieve any convict from the payment of all costs for which he would be liable under the general laws of this State.

Sec. 4. Each county commissioner shall have control of all road overseers in his district, and shall deliver to each of them all tools and machinery necessary in working the roads in the district of said overseer, so far as he has been supplied therewith by the Commissioners' Court, taking receipt of said overseer therefor, specifying each item and giving its value, which receipt shall be a full answer of the liability of the commissioner, and shall fix the liability of the overseer; and any commissioner or overseer who shall have been entrusted with any teams, tools, or machinery belonging to said county shall be liable for any damage that may occur to the same while in his possession caused by his negligence or want of due care of same, and shall not use or permit the same to be used for private purposes without the consent of the Commissioners' Court. It shall be the duty of the road overseer when he has finished work on his roads to return to said commissioner all tools and machinery received from him and take up the receipt taken therefor.

Sec. 5. It shall be the duty of the county commissioner when acting as road overseer to inform himself of the condition of the public roads of his district, and shall determine what character of work shall be done upon said roads, and shall direct the manner of grading, draining, or otherwise improving the same, which direction shall be observed and obeyed by all road overseers of his district.

Sec. 6. The commissioners may require of each road overseer in his district to call out the hands in such numbers as may be sufficient to perform the work, but no road hand shall be required to work exceeding five days in any one year, or two days with himself and team, unless the term of service as prescribed by the general laws shall be extended beyond that time; and provided, that all road hands in any particular district shall, as far as practicable, be worked a uniform time. Each road overseer, or, in case of his absence, any person deputized by him, shall have full control of all road hands within his road district, and shall see that each hand when called out shall perform a good day's work; and if any hand when so called out shall fail or refuse to perform a good day's work, or to work in the manner the road overseer may direct, shall be

liable to the same penalty as if he had failed to appear in obedience to the summons.

Sec. 7. Any citizen of McLennan county liable for road duty who shall on or before the first day of February of each year pay to the county treasurer the sum of three dollars shall be exempt from all road duty for such year beginning on the first day of February. The treasurer shall receive and receipt for all moneys so paid him, and shall place the same to the credit of the road and bridge fund. The treasurer shall on the third day of February, or as soon thereafter as practicable, furnish to each county commissioner a list of all persons in their respective districts that have paid said sum as provided in this section.

Sec. 8. Every person liable to work on roads, by paying his road overseer at any time before the day appointed to work on his road, the sum of one dollar each day that he is summoned to work, and one dollar and fifty cents for each day that he is summoned to furnish his team for road work, shall be exempt for working or furnishing his team for each day paid for, and also be exempt from any penalties for failure to work or furnish such teams for the time for which he has so paid.

Sec. 9. Each person summoned to work on a road shall take with him an axe, hoe, pick, spade, plow, scraper, or such other tool as may be desired and directed by the overseer, or if he has no such tools as are desired by the overseer to take with him, he shall take such other suitable tool as he may have; provided, the county shall be liable for, and the Commissioners' Court, under such regulations as they may prescribe, shall pay for all such breakage or damage to such tools as may have resulted from public road work and not caused by the negligence of the person furnishing the same. Such overseer may also summon and require such road hand to bring with him for public road work such team or teams as he may have on hand suitable for road work; provided, such hand shall be allowed two and one-half days' time for each day put in by a hand with his team and one and one-half day's time for his team without such hand.

Sec. 10. If any person liable to work upon the public roads, after being legally summoned, shall intentionally fail or refuse to attend either in person or by able and competent substitute, or fail or refuse to furnish his team or tools at the time and place designated by the person summoning him, or to pay to such overseer the sum of one dollar for each day he may have been notified to work on the road, or to pay such overseer the sum of one dollar and fifty cents for each day he may have been notified to furnish his team for road work, or having attended shall fail to perform such good service or any other duty required of him by law or the person under whom he may work, shall be deemed guilty of a misdemeanor, and on conviction thereof fined in any sum not exceeding ten dollars.

Sec. 11. At the regular term of the Commissioners' Court in February of each year, all road overseers shall make their reports under oath, upon forms to be furnished them by said court, which said report shall be examined by said court, and all accounts of moneys had and expended by him shall be audited and settled; and as soon thereafter as practicable said Commissioners' Court shall appoint and commission road overseers for the succeeding year, and in the event of the death, refusal or inability to act on the part of any road overseer so appointed, the county commis-

sioner of the precinct shall have authority to fill the vacancy and report his action in writing to the county clerk, who shall record the same in the minutes of the Commissioners' Court either in term time or vacation. Any overseer intentionally failing to perform his duties as such overseer, or failing or refusing to make his report as required by law, or failing or refusing to serve and perform the duties of overseer when appointed by said court, or to perform any other duty required of him by law or by the Commissioners' Court, or by the commissioner of his district, shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not exceeding twenty-five dollars.

Sec. 12. Whenever it shall be necessary to occupy any land for opening, widening, straightening, or draining any road or part thereof, if the owner of such land and the Commissioners' Court can not agree upon the damage to be paid, the county may proceed to condemn the same in the manner that a railroad company may condemn land for right of way, and the same proceedings may be had and the same right shall exist to such party as would exist if the proceedings were by a railroad company, except that the county shall in no case be required to give bond; provided, that nothing contained in this section shall be held to repeal the provisions of the general law relating to the opening of public roads by juries of view, but this section shall be cumulative thereof, and the Commissioners' Court of McLennan County may act under such general law, or the provisions of this section at their option in such case.

Sec. 13. It shall be the duty of the overseer to keep all hedges on or near the public road trimmed, so that the same shall not obstruct said road and shall not be of greater height than eight feet. The owner of any such hedge who shall refuse to have same trimmed, the overseer upon an order from the county commissioner of his precinct shall cause the same to be trimmed in accordance with the provisions of this act.

Sec. 14. Each county commissioner, when acting as road commissioner and performing the duties imposed upon him by law, or by the Commissioners' Court, shall be entitled to three dollars per day for the services actually performed; provided, that he shall not draw such pay for more than thirty-five days per quarter, which amount shall be paid out of the road and bridge fund, when the account shall have been approved by the Commissioners' Court; and the court shall not approve said account unless the commissioner presenting it shall sign an oath the account is just, due, and unpaid, and specifying the number of days actually performed by him and that it was necessary to be done; and no commissioner shall be entitled to pay as road commissioner while he is performing the duties of county commissioner, nor shall he receive any additional pay than that provided by this section for inspecting or riding over his road or for other service.

Sec. 15. This act shall be taken notice of by all courts in the same manner as the general law of the State, and it shall be construed to be cumulative of all general laws of the State on the subject of roads and bridges when not in conflict therewith, but in case of conflict, this act shall control as to the County of McLennan, except where otherwise provided herein.

Sec. 16. The fact that there is now no sufficient general road law in force in this State creates an emergency and an imperative public neces-

sity that the constitutional rule requiring bills to be read on three several days be suspended and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act passed the Senate by a two-thirds vote, yeas 25, nays none; and having passed the House with amendment by a two-thirds vote, yeas 99, nays none, the Senate concurred in House amendment (vote not given).]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Wednesday, the twenty-fourth day of March, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

S. B. No. 115]

CHAPTER 61.

An act to amend Article 616, Chapter 11, Title 18, of the Revised Civil Statutes of the State of Texas, relating to abolished town and city corporations.

Section 1. Be it enacted by the Legislature of the State of Texas: That Article 616, Chapter 11, Title 18, of the Revised Civil Statutes of the State of Texas, be so amended as to hereafter read as follows:

Article 616. When any corporation is abolished as provided in Articles 617b and 617c of the Revised Statutes, or if any *de facto* corporation shall be declared void by any court of competent jurisdiction, or if the same shall cease to operate and exercise the functions of such *de facto* corporation, all the property belonging thereto shall be turned over to the county treasurer of the county, and the Commissioners' Court of the county shall provide for the sale and disposition of the same, and for the settlement of the debts due by the corporation, and shall carry out and enforce all legal contracts of such corporation, and for this purpose shall have power to levy and collect a tax from the inhabitants of said town or village in the same manner as the said corporation would be entitled to, under the provisions of this chapter; provided, that when any town or city shall re-incorporate, under Chapter 1 or 11 of Title 18 of the Revised Statutes, upon a majority of the legal voters, tax-paying property holders of said town or city, all property, real and personal, of the old or *de facto* corporation, shall be vested in the new one; and provided, further, that the new corporation shall assume all the legal indebtedness, contracts and obligations of the old corporation; provided, where cities and towns have re-incorporated under Chapters one or eleven of Title eighteen of the Revised Civil Statutes, upon a majority of the tax-paying property owners of said city or town, all property, real or personal, of the old or *de facto* corporation shall be vested in the new corporation; provided, further, that the new corporation shall assume all the legal indebtedness, contracts, and obligations of the old corporation.

Sec. 2. There being no provisions by which new corporations can be vested with the property, and assume the indebtedness of the old corporation, and carry out and enforce contracts made by such corporations, an emergency exists, and an important public necessity demands the sus-

pension of the rule requiring bills to be read on three several days be suspended; and it is so suspended and declared that this act shall take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act passed the Senate by a two-thirds vote, yeas 21, nays —; and passed the House (vote not given).]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Thursday, the twenty-fifth day of March, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

S. B. No. 31.]

CHAPTER 62.

An act to amend Article 838, Chapter 6, Title 17, of the Penal Code of the State of Texas, defining the crime of burglary.

Section 1. Be it enacted by the Legislature of the State of Texas: That Article 838, Chapter 6, Title 17, of the Penal Code of the State of Texas, be so amended as hereafter to read as follows:

Article 838. The offense of burglary is constituted by entering a house by force, threats, or fraud, at night; or in like manner by entering a house at any time, either day or night, and remaining concealed therein, with the intent in either case of committing a felony or the crime of theft.

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Thursday, the twenty-fifth day of March, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

Takes effect ninety days after adjournment.

S. B. No. 105.]

CHAPTER 63.

An act to secure a system of drainage along the public roads of the State by excavating ditches and drains on either side thereof, leading into the natural water-ways crossed by or adjacent to such roads, and to provide for the making of lateral drainage ditches to empty into the same, by the owners of lands adjacent to said roads; and to provide for the payment of expense incurred therefor, and for the collection of assessments from adjoining land owners benefitted by such drainage system.

Section 1. Be it enacted by the Legislature of the State of Texas: That for the purpose of this act, all public roads and highways that have been heretofore, or that may hereafter be laid out and established agreeable to law, and all roads and highways that have been opened to and used by the public for a period of ten years prior to the passage of this act, and which have not been discontinued or closed to the use of the public agreeable to law, are hereby declared to be public roads.

Sec. 2. The Commissioners' Court of any county in this State, at any regular session thereof, may, in the manner hereinafter provided, and the said court shall have power to cause to be constructed and maintained as hereinafter provided, ditches, drains, and water-courses, on and within the exterior lines of all public roads situated within any of the said counties, sufficient in capacity to carry off and into the natural water-ways of the county, all surface water reasonably adjacent and liable to collect in said ditch, drain, or water-course, from natural causes, or by means of the construction of private lateral ditches as hereinafter provided for, and shall also have power to construct, in connection with such drain or water-course, any side lateral spur or branch ditch or water-course necessary to the accomplishment of the purposes of this act; provided, however, that no ditch, drain, or water-course shall be constructed along any public road without there being constructed, at the same time, a ditch, drain, or water-course, as an outlet to a natural water-way, sufficient in capacity to carry off all water that may collect therein; provided, further, that the word "ditch" in this act, hereafter shall be construed to embrace any ditch, drain, or water-course, that may be constructed under the provisions of this act.

Sec. 3. Before the Commissioners' Court of such county shall have the power to order the construction or establishment of any ditch, drain, or water-course provided for in this act, there shall be filed with the county clerk of the County Court of said county a petition signed by at least one hundred tax-payers and voters of said county, which petition shall set forth the necessity and availability for such drainage system, and the number of miles of public roads within such county, as accurately as the same may be known, and as near as practicable, the width and depth required for the ditches to be constructed along the first-class roads of the county. Said petition shall, also, separately state the name and location of each of the natural water-ways of such county, crossed by each of the first-class public roads of the said county, and the distance of said natural water-ways, one from the other, along said road; said petition shall also state the names and residence, if known, of the owners of the lands adjacent to each of said first-class public roads, and within one mile thereof, and if unknown, the same shall be stated therein.

Sec. 4. Upon the filing of said petition with the clerk of the County Court he shall issue five notices in writing, containing a brief statement of the contents of said petition, commanding all persons interested, to appear at the next regular term of the Commissioners' Court of such county and contest the same. One of said notices shall be posted at the court-house door of such county, and one each at four other public places in such county, no two of which shall be in the same town or city, for twenty days prior to the first day of the next regular term of the Commissioners' Court after the issuance thereof. Said notices shall be posted by the sheriff of the county, who shall make due returns to the clerk of the County Court of such notices, on or before the said first day of the term, and for such services the sheriff shall receive a fee of three dollars, and the clerk shall receive a fee of one dollar and fifty cents.

Sec. 5. At the next regular term after the filing of the petition and issuance of notices, the Commissioners' Court shall hear and determine the same in connection with all protests, remonstrances, or objections thereto, and if they find that the adoption of the drainage system provided for herein is necessary, advisable, or for the public benefit, or for the best interest of the county, the said court shall so order, and the order shall be entered at length upon the minutes of the court, and become a part of the record thereof, and the same shall recite the time, character, and manner of service of notice, and if it appears therefrom that notice has been given as provided for herein, the said order shall be final, and thereafter no question shall be raised as to the power of the court to hear and determine said application.

Sec. 6. At the same or any succeeding term of the Commissioners' Court after the entry of the order adopting the drainage system provided for herein, the Commissioners' Court shall employ a competent surveyor, who shall be an engineer, to run a line of levels along the public roads of the county, and to measure the same from the beginning to the terminus of said road, and to measure the distance of each water-way crossed by said roads from the beginning point, together with the frontage of each tract of land abutting on said road, and also, the distance from said road of any adjacent natural water-way, with a line of levels thereto; provided, that the said survey and the drainage system herein provided for, shall be first applied to the first-class roads of such county, and thereafter to roads of the second and third class; and provided, further, that nothing herein shall be construed to prohibit the said court from constructing one or more ditches at the same time, as the financial condition of the county will permit.

Sec. 7. The surveyor shall, as soon as practicable after his employment, proceed to make an accurate survey and system of levels as provided for in Section 6 of this act, and shall cause stakes or monuments to be placed along said line at intervals of 100 feet, together with such intermediate stakes as may be necessary, numbered progressively, and shall establish permanent bench marks along said lines at intervals of one mile or less, as may be necessary, and shall establish by stake or monument of a different character and appearance from all other stakes or monuments the highest point upon said road between each of the natural water-ways crossed by the road; said surveyor shall, also, measure and establish by suitable marks, the frontage of each tract of land abutting on said road, and if there be a natural water-way adjacent to the line of said road and ditch

and the same is necessary to be utilized as an outlet for the water at any point on said ditch, the surveyor shall measure the distance to same, and run the line of levels thereto, at the nearest practicable point on said road and ditch. He shall prepare a map showing the location of said ditch or ditches, together with the position of stakes or monuments with numbers corresponding with those on the ground, and the position of bench marks, with their elevations referred to an assumed or previously determined datum. Said map shall also show the lines and boundaries of adjacent land, and the courses and distances of any adjacent water-course, together with a profile of the line of the ditch, which shall show the assumed datum and the grade line of the bottom of the same, and the elevation of each stake, monument, or other important feature along the line, such as top of banks, and bottom of all ditches or water-courses, and surface of water, top of rail, and bottom of tie, foot of embankment, bottom of burrow pits of all railroads. And said map, or the explanation accompanying the same, shall, in tabular form, give the depth of cut, width at bottom and width at top, at the source, outlet, and at each one hundred feet stake or monument to said ditch, drain or water-course. Said map or the explanation accompanying the same, shall show the total number of cubic yards of earth to be excavated and removed from said ditch between each natural water-way into which the water is to be conveyed, and an estimate of the cost of each portion of the said ditch or ditches lying between natural water-ways crossed by said road, together with an estimate of total cost of the whole work.

The surveyor shall, as soon as the survey is completed, prepare and file, together with his report and map as herein provided for, specifications in detail for the execution of the same, and whenever in the opinion of the surveyor it may be advantageous to run said ditch under ground through drainage tiles, he shall so state in said report, map, and specifications, together with the statement of the locality of said underground ditch, and length thereof, and the dimensions or character of tiling or other material required therefor. The survey, report, map, explanation, and estimate, herein provided for, shall be made and filed with the county clerk of the county by the surveyor as soon after his employment as may be practicable, having in view an accurate and complete report upon the physical conditions to be met in the construction of said ditch or ditches.

Sec. 8. At any regular or called session of the Commissioners' Court after the filing of the report, map, explanation, specifications, and estimate, of the surveyor, provided for in Section 7 of this act, the court shall appoint a jury of five free-holders of the county not interested directly in the construction of the proposed work as a land owner adjacent to or abutting on said ditch or ditches, and not of kin to any of the parties so directly interested therein, who shall constitute a jury of viewers who shall meet at a time and place to be specified by the said court in the order appointing them, and it shall be the duty of the county clerk thereupon to issue to the said viewers a certified copy of the petition and order of the court, together with the original report, map, explanation, specifications, and estimate, of the surveyor, and if said jury of viewers shall fail or refuse from any cause to perform the duties required under such appointment, or if their report, from any cause, should not be adopted, the court may at any succeeding term, appoint another jury of viewers,

whose appointment and duties shall be the same as required in the first instance. The jury of viewers shall proceed at the time and place specified in the order of the court appointing them, after having given notice to each abutting land owner, and owner of land within one mile of said ditch, as hereinafter provided, and after viewing the line of the proposed ditch, and after hearing all protests, claims and remonstrances offered, they shall take the several partial estimates, and the estimate of the total cost of the work as made by the surveyor as a basis, and they shall set apart and apportion to each parcel of land abutting on said road and ditch or within one mile of the same, and to each person, firm, or corporation owning the same, the proportionate share chargeable to such tract of the one-half of the total cost of the said ditch, drain, and water-course, taking into consideration the relative amount of benefit derived by said land from the construction thereof, and they shall assess the amount of damages or compensation due to each land owner through whose land any spur, branch, or lateral ditch, is, or may be constructed under the order of appointment, which sum shall be paid by the county before the opening of such ditch is begun; provided, that said jury of viewers shall have lines run parallel to the line of said [ditch], at a distance of one mile upon either side of the same, and no lands lying outside of said lines shall be assessed with any portion of the cost of such ditch and drain, but all lands and tracts of land lying within said lines may be assessed their proportionate share of said one-half of the total cost, taking into consideration the amount or value of benefits derived by said lands or tracts of land from the construction of such ditch. The jury of view shall make a report to the Commissioners' Court, under oath, as soon as practicable after their meeting, signed by at least three of said jury, and duly verified under oath, and shall return with their report a description as accurate and complete as may be, of each tract or parcel of land assessed by them, together with the number of acres and the name of the owner or owners thereof, and the amount by them assessed against each tract, and the owner thereof. The jury of viewers shall also return with their report, the map, profile, explanation, and estimates, of the surveyor, together with a copy of the specifications, and the same shall be filed with the clerk, and shall become a public record and be preserved as such, and the court shall act upon said report at the next regular or called term, and approve or reject the same; provided, that the court may appoint separate juries of view for each road and ditch to be constructed, if deemed desirable or of advantage to the public.

Sec. 9. The said jury of viewers, before proceeding to act as such, shall take the following oath before an officer authorized to administer the same, to-wit: "I do solemnly swear that I am not directly interested in the construction of the proposed ditch, either as the owner or otherwise of adjacent land lying within one mile thereof, and that I am not of kin to any person who is so interested. I further swear that I have no bias or prejudice towards any person directly interested in said ditch, and that I will assess the amount of expense due on and by all adjacent lands lying within one mile of said ditch, according to law, without fear, favor, hatred, or hope of reward, to the best of my knowledge and ability. So help me God."

Sec. 10. The said jury of view, as provided for in this act, shall issue a notice in writing to the land owner of each abutting tract along said

ditch, and to each land owner, any part of whose land lies within one mile of the line of said ditch, or to his or their agent or attorney, of the time and place when they will assess the one-half of the expense incidental to the construction of the ditch or ditches specified in the order of appointment, which notice shall be served upon such owner, his agent or attorney, at least five days before the day named therein; said notice may be served by any person competent to testify, and a duplicate of said notice, together with the returns of said service, shall be returned and filed with the report of the jury of viewers. If such owner is a non-resident of the county, and has no resident agent or attorney therein, the notice shall be given by publication in a newspaper published in the county, as notices are required to be given to non-resident defendants in actions in the District Courts, and said notice shall be complete after four weeks publication thereof prior to the date named for the meeting of the jury of view, and at any time thereafter the jury of viewers may proceed to assess the proportionate part of such expense against said non-resident land owner, and the land owned by him subject thereto. The cost of such publication shall be paid by the county, on an order of the Commissioners' Court.

Sec. 11. Any person who may be affected by such ditch, drain, or water-course, or any citizen of the county, shall have the right to appear before the Commissioners Court on the hearing of the petition for the establishment of the drainage system, and shall have the right to be heard upon their protest, remonstrances and objections thereto; but the action of the court thereon shall be final; and in case the court shall refuse to adopt the drainage system provided for herein, no application therefor shall be filed or heard by said court for one year thereafter.

Sec. 12. Any person whose land may be affected by such ditch, drain, or water-course, shall have the right to appear before said viewers and freely express their opinions on all matters pertaining to the assessment of expense against them, and the owner of any such lands may at the time stated in such notice or previously thereto, present to the jury a statement in writing of any objections to or dissatisfaction therewith, and any claim for damages which he may have sustained by reason of the making of said ditch or drain, and a failure to make such objection or claim for damages or compensation in writing as herein specified shall be deemed a waiver of all claim or right thereto, all of which said claim or objection shall be returned to the Commissioners Court in connection with the report of the viewers; provided, that any adjacent land owner shall have the right to appear before, and be heard by, the Commissioners Court on his protest or remonstrance or claim against the action of the jury of viewers.

Sec. 13. Any person, firm, or corporation, aggrieved by the assessment of expense for construction of any ditch or ditches by the jury of view, or any person, firm, or corporation, aggrieved by the assessment of damages or compensation allowed by the jury for land taken or applied to the construction of any lateral, spur, or branch ditch, may appeal from the final order of the Commissioners Court approving the report of said jury to any court within the county having jurisdiction of the amount of such assessment, by giving notice of appeal in open court and having the same entered as a part of the judgment of the court, and by filing, within ten days thereafter, a transcript of the proceedings had in the Commissioners

Court, with the justice, or clerk of the court to which appeal is taken, together with an appeal bond with at least two good sureties, to be approved by such clerk or justice, in double the amount of the probable costs to accrue, conditioned that the appellant will prosecute his appeal to effect, and pay all costs that may be adjudged against him in said court; and if the appeal is taken from an assessment of expense levied by the jury of viewers against the appellant, the said appeal shall be heard upon the following issue, to-wit: "Whether the assessments made against the appellant for the construction of such ditch are in proportion to the benefits to be derived therefrom." And if the appeal is taken from an assessment of compensation made by the jury of viewers in favor of appellant for land taken and applied to the construction of such ditch, or any portion of the same, the said appeal shall be heard upon the following issue, to-wit: "Whether the assessment of compensation made by the jury is adequate to the injury occasioned and to the value of the land."

Sec. 14. In the trial of all cases so appealed from the order of the Commissioners' Court, the burden of proof shall rest upon the appellant and the court or jury trying the cause shall state the correct amount of expense chargeable to appellant, or the correct amount of compensation due to appellant, as found by them, and the same shall be entered as the judgment of the court thereon, and from such judgment no further appeal shall be allowed to either party, and if the verdict of the jury shall find the appellant chargeable with a less amount of expense, or that the appellant is entitled to a greater amount of compensation as damages, than was found by the jury of viewers, the costs shall be adjudged against the county; otherwise the same shall be adjudged against the appellant. Within five days after the entry of such judgment, the clerk or justice shall issue and return to the Commissioners' Court a certified copy of such judgment, to be filed with the papers pertaining to such ditch, and the same shall be entered by the Commissioners' Court, as the judgment of said court, and thereafter the appellant shall be holden for, or claim, as the case may be, the amount specified in said judgment.

Sec. 15. The Commissioners' Court of such county may at the next term thereof, after the filing of the report of the jury of viewers and the entry of the order approving the same, if the report be approved, make an order setting aside such portion of the road and bridge fund, and such portion of the special road and bridge fund, if any, as may be necessary for the construction of the ditch or ditches described in the report of the jury of viewers, and shall also enter an order to the overseer or overseers of the road adjoining said ditch or ditches, or to the supervisor of the road or to the road commissioner, commanding him to construct such ditch or ditches in accordance with the specifications of the surveyor, which shall be turned over to him for his information, and that the earth taken therefrom shall be used in making a raised road adjoining said ditch or ditches, and the court shall further order that all the road hands apportioned to said road, and that any teams, tools or materials belonging to the county, and necessary to the execution of such work be apportioned to said overseer, supervisor, or commissioner for the completion thereof; and shall authorize such overseer, supervisor, or commissioner to employ such additional labor and teams, and to purchase tools and implements as may be necessary, to be paid for out of the road

and bridge fund set aside therefor, on the order of the Commissioners' Court, and the said order shall further show the amount of compensation to be allowed to the said overseer, supervisor, or road commissioner for his services.

Sec. 16. The Commissioners' Court may employ some suitable and competent person other than the overseer, road commissioner, or supervisor if to the best interest of the county, and such person shall have the same powers, duties, and responsibilities as provided for overseers, road commissioners, and supervisors, in Section 15 of this act, and the court shall enter an order showing the amount of compensation to be paid him for his services.

Sec. 17. At the same or at any succeeding term after the entry of the order for the construction of the ditches and roadway as provided in Section 15 of this act, the Commissioners' Court shall make and enter upon the minutes of the court, a list, showing the names of the owners, amounts due, the tract of land, original grantees, number of acres covered by each assessment of expense, as made and reported by the jury of viewers, and as approved by the court, and the county clerk shall issue a certificate against each person on said list, showing the amount of such assessment, and for what ditch or road the same was issued, and the tract of land on which said amount was assessed, which certificate shall be signed by the County Judge in open court, and attested under the hand and seal of the said county clerk, which fact shall be noted upon the minutes of said court.

Sec. 18. The County Judge shall deliver the certificate to the County Treasurer, taking his receipt therefor, which shall be filed with the papers and archives concerning such ditch, and the County Treasurer shall collect the sums due on such certificates, and deposit the amount so collected to the credit of the road and bridge fund.

Sec. 19. In case any person against whom any such certificate may be issued shall fail or refuse to pay the same to the County Treasurer on demand therefor, such Treasurer shall turn same over to the county attorney, who shall, at once, file suit thereon, and have the lien on said land, herein provided for, foreclosed, or for a personal judgment, as may be lawful.

Sec. 20. All assessments, sums, and charges, by the said viewers, or order of court, assessed against any lands or land and the owner or owners thereof, shall be a lien thereon unless prohibited by the Constitution of this State, and the same shall be collected in the manner provided in Section 19 of this act; and any damages for compensation awarded by said jury of viewers, to any land owner, on the order of the court, shall be paid out of the county treasury on the order of said court, from the fund set aside for the construction of such ditch or ditches.

Sec. 21. The said jury of viewers shall each receive the sum of three dollars per day as compensation for their services for each day so actually engaged; and said surveyor and engineer shall receive as compensation, such sum as may be allowed by the Commissioners' Court, provided no road overseer or any court shall on petition or otherwise have the power to change the natural course of any branch, creek, or water stream, but such volume of water shall always enter and cross said road at its natural crossing, and overseers shall always, in draining their roads, provide a culvert sufficiently broad and tall to permit said stream to flow at high

tide, from its intersection with said road, across to its natural outflow at the opposite natural channel.

Sec. 22. Any owner of lands or tracts of land abutting on said road or ditch, or the owner of any tract of land lying wholly or partially within one mile of such road or ditch may construct lateral drainage ditches and connect the same with such main ditch or ditches as shall be constructed under the provisions of this act, provided the same be done at his own cost.

Sec. 23. The provisions of this act shall be cumulative to all other provisions of law, and shall not be held to repeal any existing law upon the subject of drainage.

Sec. 24. Whereas, the great importance of legislation on the subject matter of this bill to large sections of the State, having insufficient drainage laws, causing great loss, creates an emergency, and the public necessity demands the suspension of the constitutional rule which requires the bill to be read on three several days, therefore the rule is suspended, and this bill shall take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act passed the Senate by a two-thirds vote, yeas 25, nays 1; and having passed the House by a two-thirds vote, yeas 102, nays none, the Senate concurred in House amendments (vote not given).]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Thursday, the twenty-fifth day of March, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

S. B. No. 248.]

CHAPTER 64.

An act to authorize and permit the Aransas Pass Harbor Company to purchase from the State of Texas, Harbor Island, certain shoal waters and flats in front thereof, and in Red Fish Bay, and to excavate a free channel along and through Turtle Cove between Corpus Christi Bay and the deep water harbor or channel at or near Aransas Pass, on the gulf coast of Texas, in order to encourage the procuring and maintenance of deep water at Aransas Pass, and prescribing certain conditions attaching to and following said purchase.

Section 1. Be it enacted by the Legislature of the State of Texas: The Aransas Pass Harbor Company shall be permitted to purchase from the State of Texas, at two dollars per acre, all or any portion of Harbor Island, situated near Aransas Pass, on the Gulf Coast of Texas, as well as the shoal waters and flats lying in front of said island on its East side out to the present deep water channel, and also, all and any flats and shoal waters in Red Fish Bay, lying in one half mile of any deep water channel navigable for sea-going boats, that may be hereafter constructed by said company through or in said Red Fish Bay connecting the same with Aransas or Corpus Christi Bays, or the Morris and Cummings Channel, and extending to the shore of Red Fish bay at and near the present town

site of Aransas Pass; provided, that any channel so constructed in Red Fish Bay shall be, throughout, at least sixty feet wide at the bottom, and five feet deep, and provided, further, that said company shall not be permitted to purchase any flats or shoal waters in Red Fish Bay lying within one-half mile of any private holdings fronting on said Red Fish Bay on the side next to the present town site of Aransas Pass; provided, that all channels excavated or constructed by said Aransas Pass Harbor Company under the authority of this law, shall forever remain open and free to all vessels, without fee or charge; provided, that said company shall not be permitted to purchase the twenty-five acres of Harbor Island heretofore patented to the United States and on which Aransas Lighthouse now stands, nor the shoal waters or flats in front thereof, nor the land on which the State Quarantine Station is now situated on said island, nor the shoal waters or flats [flats] in front thereof, which said land is hereby specially reserved to the State, and which said land, so reserved, is described as follows: Beginning at a point situated at mean low tide mark on the East shore of said Harbor Island, one half mile in a northerly direction from the center of the foot or shore ends of the present Quarantine Wharf; thence, in a southerly direction, along the East shore of said island at mean low tide mark, with its meanders, one mile, to the S. E. corner of this tract of land; thence, in a westerly course, at right angles with the general course of the line above established, one-half mile established corner, for the S. W. corner of this tract; thence, in a northerly direction, parallel with the general course of the East line of this tract, as herein first above provided, one mile established, the N. W. corner of this tract; thence, in an easterly direction, parallel with the South line of this tract, one-half mile, to point of beginning on East Shore of Harbor Island for N. E. corner: Provided, however, that if said described property is abandoned by the State as a quarantine station, and hereafter put upon the market for sale or lease by the State, said Harbor Company shall have the preference right to buy or lease same at the price that may hereafter be put thereon by the State; Provided, however, that such preference shall continue for ninety days only, after the time said property is put on the market by the State for such sale or lease; Provided, further, that said company shall be permitted and authorized to excavate a free channel, one hundred feet wide at the bottom, and navigable throughout to ocean-going vessels along and through the shallow bay or cove, locally known as "Turtle Cove," and situated between Harbor Island on the North and Northwest, and Corpus Christi Bay on the West side, and Mustang Island on the South and Southeast, and Aransas Pass and Aransas Bay on the East and Northeast; Provided, further, that said company shall not purchase or acquire any of the shoal waters or flats adjoining what is known as Shell Bank Island, Talley Island, and the shell reef running towards the main land from said island. Be it further provided that nothing in this act contained shall be so construed as to affect or impair the vested rights of any person, firm, association of persons, or corporation.

Sec. 2. To entitle said Aransas Pass Harbor Company to acquire any title to said lands, shoal water, or flats, or any part thereof, under the provisions of this act, the said company shall have constructed a navigable channel twenty feet deep at mean low tide, one hundred and fifty feet wide at the bottom, on and across Aransas Bar, connecting the deep water

of the Gulf of Mexico with the deep water of Aransas Bay, by the first day of January, 1899, and shall have maintained said depth of twenty feet continuously for two years, after obtaining same, throughout the length and breadth of said channel. The depth of said channel shall be determined at mean low tide by the engineer in charge of the work and by a competent engineer appointed by the Governor of the State of Texas for that purpose, and who shall be paid for such services by said company, while engaged in said service, whose joint certificate as to the depth of water on said bar, showing full twenty feet of water in said channel throughout its length and breadth, and for the time required by this act, shall be evidence thereof unless legally controverted, sufficient to authorize the Commissioner of the General Land Office to issue patents to said company for such lands as the said company shall elect to purchase under this act, provided that said engineers shall make said measurements at least twice annually and at least six months apart, after said twenty feet of water has been obtained, and the certificate of each measurement shall be filed with the Commissioner of the General Land Office, within thirty days after such measurement is made, and each certificate shall show full twenty feet of water, at mean low tide, throughout said channel.

Sec. 3. Said Aransas Pass Harbor Company shall not be entitled to apply for the purchase or for a survey with the view or purpose of purchasing any of said lands, flats, or shoal waters, before said company shall have procured, constructed, or caused to be constructed, a navigable channel, on, across, and through, said bar, having a depth of fifteen feet of water at mean low tide and being one hundred and fifty feet wide at its bottom. The depth of water in said channel shall be determined by the same authority, and in the same manner as is prescribed in the preceding section of this act for determining the depth of the twenty-foot channel. Upon the joint certificates of said engineers, showing that said depth of fifteen feet of water has been obtained, and application for survey of said company being filed with the Commissioner of the General Land Office, said company shall be entitled to have the land, shoal waters, or flats, applied for, surveyed and platted, as in other cases as provided by statute for the sale of unappropriated public domain, which survey, plat, and field notes, shall be made by the county surveyor of the county where such land, shoal waters, or flats, are situated, and after being by him properly recorded as provided in other cases, shall be by him returned to the Commissioner of the General Land Office, and there filed, after which said company may make application for the purchase of such lands, shoal waters, or flats, as indicated by such surveys, plats, and field notes, so filed in the General Land Office.

Sec. 4. Upon the application of said Aransas Pass Harbor Company to the Commissioner of the General Land Office, accompanied by one-fifth of the purchase money for said land, shoal waters, or flats, or the part thereof intended to be purchased, the Commissioner of the General Land Office shall execute his receipt for the money when paid, and plat the field notes upon the maps of his office, and the remainder of said purchase money may be paid thereafter at any time within five years, the deferred payments to bear interest at the rate of five per cent per annum, payable annually until said purchase money is fully paid. One-half of the proceeds of any such sale shall belong to the permanent school fund and one-half of the general revenue of the State. If the said Aransas

Pass Harbor Company shall fail to pay the said annual interest upon any part of the purchase money when said interest shall become due, or shall fail to pay the principal when the same shall become due, then all rights acquired under the purchase, with all payments made thereon, shall be forfeited without judicial ascertainment of such forfeiture, and the Commissioner of the General Land Office shall endorse upon the contract of purchase, that the same is forfeited, whereby all rights so acquired shall be forfeited and revert to the State; Provided, that no patents shall issue for such land, shoal waters, or flats, until the provisions of Section 2 of this act have been complied with and all of the purchase money and interest paid; Provided, that the application to purchase the lands herein permitted to be purchased, and the first payment of one-fifth of the purchase price thereof, shall be made not later than two years after a depth of twenty feet has been attained, as shown by the certificate of the engineers herein provided for.

Sec. 5. The sale of lands herein authorized and the rights herein granted shall be coupled with the following conditions:

That all navigable channels constructed by said company shall forever remain open and free to all vessels without fee or charge; the tolls and charges for the use of docks and wharves constructed on any portion of said land, shall be equal, just, and uniform, to all vessels, persons, and corporations, without discrimination as to amount charged or delay in handling the same, and all such tolls and charges shall be under the control of the Legislature of the State of Texas; and, until otherwise directed by the Legislature, shall be subject to control and regulation by the Railroad Commission of Texas under the rules prescribed for the regulation of railroads, so far as applicable, and any railroad or other means of transportation which may be constructed between the mainland and said wharves and docks or deep water channels, shall be a public highway, and all rates and charges for the transportation of freights and passengers thereon shall be subject to the control and regulation of the Railroad Commission as a railroad: such railroad or other means of transportation shall receive from each and every ship, boat, and vessel, or from the wharf on which the same is discharged, all freights and passengers, and transfer and deliver them to the consignee or any connecting line of railroad without discrimination as to charge or delay in transportation and delivery, and shall in like manner receive from every person and from every connecting line of railroad all freights and passengers and transport and deliver the same to each and every ship, boat, vessel, person, or corporation, for delivery to such ship, boat, or vessel, on like equal and just terms without discrimination as to charges and delay in transportation or delivery thereof.

Sec. 6. The privileges and rights granted under this act shall not be exercised so as to hinder or interfere with the completion of any terminal or suburban railroad heretofore chartered, so far as any rights which it now has under said charter to build to and upon Harbor Island, nor to hinder or interfere with any such terminal or suburban railroad which now has the right under its charter to acquire and control depot grounds, wharf grounds, and deep water fronts.

Sec. 7. The great importance of continuing the work for deep water at Aransas Pass, and the necessity of securing it at the earliest possible day, and the fact of the vast amount of business before this session of the

Legislature, and the length of the session being limited, creates an imperative necessity and an emergency which demands that the constitutional rule requiring bills to be read three several days, be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

That all laws in conflict with any of the provisions of this act be and the same are hereby repealed.

[Note.—The foregoing act passed the Senate; and passed the House with amendments. The Senate refusing to concur, the bill was referred to a Free Conference Committee, and the report of said committee was adopted by both houses.

Vote on passage of bill, and on adoption of report of Free Conference Committee, not given, in either house.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Friday, the twenty-sixth day of March, A. D. 1897, but was not signed by him nor returned to the House in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. D. Madden, Secretary of State.]

H. B. No. 577.]

CHAPTER 65.

An act to create a more efficient road system for Montague, Red River, and Wichita Counties, in the State of Texas, and making County Commissioners of said counties ex officio road commissioners, and prescribing their duties as such, and providing for their compensation as road commissioners, and defining the powers and duties of the Commissioners Courts of said counties and fixing a penalty for the violation of this act and to repeal all laws in conflict with this act.

Section 1. Be it enacted by the Legislature of the State of Texas: That each member of the Commissioners' Courts of Montague, Red River, and Wichita Counties shall be ex officio road commissioners of their respective districts, and under the direction of the Commissioners' Court shall have charge of all the teams, tools, and machinery belonging to the county, and placed in their hands by said courts: and it shall be their duty under such rules and regulations as the Commissioners' Court may prescribe, to superintend the laying out of new roads, the making or changing of roads, and the building of bridges. Each of said commissioners shall, before entering upon the duties of their office, execute a bond of one thousand dollars (\$1000) with two or more good and sufficient sureties, payable to the County Judge of said counties, for the use and benefit of the road and bridge fund, conditioned that they will perform all the duties required of them by law or by the Commissioners' Court, and that they will account for all money or property belonging to the county that may come into their possession; provided, that with the consent of a Commissioners' Court, any one of said commissioners shall be allowed to appoint any competent person as deputy road commissioner, who shall be required to execute the same bond that is required of commissioners in this section; and such deputy road commissioner shall be entitled to

the same compensation that is allowed county commissioners for the same service; provided, that county commissioners shall not be allowed any compensation as road commissioner when a deputy road commissioner has been appointed.

Sec. 2. The Commissioners' Courts of said counties shall have full power and authority, and it shall be their duty, to adopt such system for working, laying out, draining, and repairing the public roads in such counties as they may deem best, and from time to time said courts may change their plans or system of working. Said Commissioners' Courts shall have power to purchase such teams, tools, and machinery as may be necessary for the working of their roads. Said courts shall have the power to construct, grade, or otherwise improve any road or bridge by contract. In such case, said courts or the county judges may advertise in such manner as said courts may determine, for bids to do such work, and the contract shall be awarded to the lowest responsible bidder, who shall enter into bond payable to the county judges of said counties, for the use of the road and bridge fund, with good and sufficient sureties, to be approved by said courts and in such sum as said courts may determine, for the faithful compliance with the terms of said contract, but said courts shall have the right to reject any and all bids. At the time of making any such contract the court shall direct the county treasurer to pass the amount to a particular fund for that purpose, and the treasurer shall keep a separate account of such funds, and the same shall not be used for any other purpose, and can only be paid out on the order of said courts; and the said courts shall have authority to employ any hands or teams to work on the roads under such regulations and for such price as they may deem best.

Sec. 3. The Commissioners' Courts of said counties shall require all county convicts, not otherwise employed, to labor upon the public roads, under such regulations as they may prescribe, and each convict so worked shall receive a credit of fifty cents on his fine, first, and then on the cost, for each day he may labor. The Commissioners' Court may, at a regular term, allow to the officers and witnesses such amount of their costs for the arrest and conviction of said convicts, as it may deem best; provided, that it shall not allow to any officer any amount greater than the following: county judge, \$3; county attorney, \$5, including commissions; county clerks and justices of the peace, \$1.70; sheriffs or constables, \$2.00, which amount shall be paid to the officer out of the road and bridge fund, on the warrant of the county judge, when said fine and costs shall have been worked out as provided in this section; provided, that this shall not be so construed as to relieve any convict from the payment of all costs for which he will be liable under the general laws of this State. The Commissioners' Court may grant a reasonable commutation of time for which a convict is committed, as a reward for faithful services and good behavior; provided, that such commutation shall in no case exceed one-tenth of the whole time. The Commissioners' Court may provide the necessary houses, prisons, clothing, bedding, food, medicine, medical attention, and guards, for the safe and humane keeping of convicts.

Sec. 4. Each county commissioner shall have control of all road overseers in his district, and shall deliver to each of them all teams, tools, and machinery necessary in working the roads in the district of said overseer,

so far as he has been supplied therewith by the Commissioners' Court, taking receipt of said overseer therefor, specifying each item and giving its value, which receipt shall be a full answer for the liability of the commissioner, and shall fix the liability of the overseer; and any commissioner or overseer who shall have been intrusted with any team, tools, or machinery belonging to said county, shall be liable to all damages that may occur to the same while in his possession. It shall be the duty of the road overseer, when he has finished work on his road, to return to said commissioner all teams, tools, and machinery received from him, and to take up the receipt given therefor.

Sec. 5. It shall be the duty of the county commissioner, when acting as road commissioner, to inform himself of the condition of the public roads in his district, and shall determine what character of work shall be done on said roads, and shall direct the manner of grading, draining, or otherwise improving the same, which direction shall be observed and obeyed by all road overseers of his district.

Sec. 6. The commissioners may require each road overseer in his district to call out the hands in such numbers as may be sufficient to perform the work, but no road hand shall be required to work exceeding five days in any one year, unless the term of service as prescribed by the general laws shall be extended beyond that time; and provided, that all road hands in a particular district shall as far as practicable be worked a uniform time. Each road overseer shall have full control of all road hands in his road district, and he shall see that each hand, when called out, shall perform a good days work; and if any hand when so called out shall fail or refuse to perform a good day's work, or to work in the manner the overseer may direct, he shall be liable to the same penalty as if he had failed to appear in obedience to the summons. The Commissioners' Court may allow to any overseer who shall be engaged in the discharge of the duties of his office for more than five days during any one year, a compensation not to exceed one dollar and one half per day for the time so served.

Sec. 7. Any citizen of Montague, Red River, or Wichita Counties, liable for road duty, who shall, on or before the first day of January of any year, pay to the County Treasurer the sum of three dollars, shall be exempt from road duty for such year, beginning on the first day of January. The treasurer shall receive and receipt for all money so paid him, and place the same to the credit of the road and bridge fund, and he shall keep a separate account for each road district from which it is received. The treasurer shall, on the third day of January, or as soon thereafter as practicable, furnish to each county commissioner a list of all persons in their respective districts that have paid said sums as provided in this section.

Sec. 8. Whenever it shall be necessary to occupy any land for the purpose of opening, widening, straightening, or draining any road or part thereof, if the owner of such land and the county commissioners' court can not agree upon the damage to be paid, the county may proceed to condemn the same in the same manner that a railroad company can condemn land for right of way, and the same proceedings may be had and the same right shall exist to each party as would exist if the proceedings were by a railroad company, except that the county shall in no case be required to give bond.

Sec. 9. Each county commissioner when acting as road commissioner and performing the duties imposed upon him by law or by the Commissioners' Court, shall be entitled to two dollars per day for the services actually performed; provided, he shall not receive more than forty-five dollars per quarter, when the road and bridge tax has not been levied according to law, under the amendment of 1889, as adopted in 1890, to the Constitution of the State of Texas, and when said tax shall have been levied he may receive an amount not to exceed ninety dollars per quarter, which amount shall be paid out of the road and bridge fund when the account shall have been approved by the Commissioners' Court, and the court shall not approve said account unless the commissioner presenting it shall sign an oath that the account is just, due, and unpaid, and specifying the number of days [work] actually performed by him, and that it was necessary to be done; and no commissioner shall be entitled to pay as road commissioner while he is performing the duties of county commissioner.

Sec. 10. This act shall be cumulative of all general laws on this subject, and be taken notice of by all courts in the same manner as the general laws of the State on the subject of roads and bridges when not in conflict therewith; but in case of conflict this act shall control as to Montague, Red River, and Wichita Counties, and all laws conflicting herewith are hereby repealed.

Sec. 11. The fact that there is now no sufficient general road law in force in this State, creates an emergency and imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act passed the House by a two-thirds vote, yeas 95, nays 6; and passed the Senate by a two-thirds vote, yeas 25, nays none.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Friday, the twenty-sixth day of March, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

H. B. No. 432.]

CHAPTER 66.

An act to restore and confer upon the County Court of Jefferson County the civil and criminal jurisdiction heretofore belonging to said court under the Constitution and general Statutes of Texas to define the jurisdiction of said court; to conform the jurisdiction of the District Court of said county to such change; to fix the time of holding court and to repeal all laws in conflict with this act.

Section 1. Be it enacted by the Legislature of the State of Texas: That the County Court of Jefferson County shall hereafter have exclusive original jurisdiction in civil cases wherein the matter in controversy shall exceed in value two hundred dollars, and shall not exceed five hundred dollars, exclusive of interest, and shall have concurrent jurisdiction with the District Court of said county, when the amount in controversy shall exceed five hundred dollars, and not exceed one thousand dollars.

Sec. 2. Said County Court shall have appellate jurisdiction in civil cases over which Justices' Courts have original jurisdiction, when the judgment of the court appealed from or the amount in controversy shall exceed twenty dollars, exclusive of interest, and said County Court shall have power to hear and determine cases brought up from Justices' Courts by certiorari, under the provisions of the title of the Revised Civil Statutes of 1895 relating thereto.

Sec. 3. The County Judge of said county shall have authority either in term time or in vacation, to grant writs of injunction, sequestration, mandamus, garnishment, attachment, certiorari, supersedeas, and all other writs necessary to the enforcement of the jurisdiction of said court, and shall also have power to issue writs of habeas corpus in all cases in which the Constitution has not exclusively conferred the power on the District Court or judge thereof.

Sec. 4. That said court shall have and exercise the general jurisdiction of a probate court; shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards; grant letters testamentary and of administration; settle accounts of executors, administrators and guardians; transact all business pertaining to the estates of deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the partition, settlement, and distribution of estates of deceased persons; and to apprentice minors as provided by general law, and to issue all writs necessary for the enforcement of its jurisdiction, orders, and decrees.

Sec. 5. Said County Court shall have jurisdiction in the forfeiture and judgment of all bonds and recognizances taken in criminal cases of which said court has original or appellate jurisdiction.

Sec. 6. Said County Court shall have exclusive original jurisdiction of all misdemeanors, except misdemeanors involving official misconduct, and except misdemeanors in which the highest penalty that may be imposed by the law is a fine without imprisonment that does not exceed two hundred dollars; and said court shall have appellate jurisdiction with trial de novo in criminal cases in which justices of the peace and other inferior tribunals of said county have original jurisdiction.

Sec. 7. The District Court of said county shall no longer have juris-

diction of misdemeanors, except misdemeanors involving official misconduct, and shall no longer have jurisdiction of cases of which the County Court of said county by provisions of this act have original or appellate jurisdiction.

Sec. 8. It shall be the duty of the District Clerk of said county, within thirty days after this act shall take effect, to make full and complete transcripts of orders on the criminal and civil dockets then pending before the District Court of said county, of which cases by the provisions of this act original and appellate jurisdiction is given to the said County Court, and to deliver said transcripts, together with the original papers in each case, to the county clerk of said county, and the said county clerk shall file the same and enter said cases on the respective dockets for trial by said court.

Sec. 9. The said County Court shall also have the power to hear and determine all motions against sheriffs and other officers of the court, for failure to pay over moneys collected under the process of said court, or other defalcations of duty in connection with such process, and shall have power to punish by fine not exceeding one hundred dollars and by imprisonment in the county jail not exceeding three days, any person guilty of contempt of said court, and all other powers and jurisdiction conferred on county courts by the Constitution and general laws of this State.

Sec. 10. The terms of said court shall commence on the first Monday in February and on the first Monday in May and on the first Monday in August and on the first Monday in November of each year, and shall continue in session for each term until the business may be disposed of: Provided, that the County Commissioners Court of said county may hereafter change the terms of said court whenever it may be deemed necessary.

Sec. 11. All laws and parts of laws in conflict with this act be, and the same are hereby expressly repealed in so far as they relate to Jefferson County.

Sec. 12. The approaching close of this session of the Legislature, the crowded condition of the calendar of each house, and the importance of the passage of this measure to the people of Jefferson County, alike create an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and that this act take effect from and after its passage, and it is so enacted

[Note.—The foregoing act passed the House by a two-thirds vote, yeas 92, nays none; and passed the Senate by a two-thirds vote, yeas 28, nays none.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Friday, the twenty-sixth day of March, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

H. B. No. 75.]

CHAPTER 67.

An act to amend Article 881 of the Penal Code of the State of Texas, relating to theft of horses, asses, and mules, so as to fix the punishment therefor at confinement in the penitentiary for not less than two nor more than ten years.

Section 1. Be it enacted by the Legislature of the State of Texas: That Article 881 of the Penal Code of the State of Texas be amended so as hereafter to read as follows:

Article 881. If any person shall steal any horse, ass, or mule, he shall be punished by confinement in the penitentiary not less than two nor more than ten years.

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Friday, the twenty-sixth day of March, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

Takes effect 90 days after adjournment.

H. B. No. 15.]

CHAPTER 68.

An act to amend Article 822, Chapter four, of Title 17 of the Penal Code of Texas, relative to inspection of sheep.

Section 1. Be it enacted by the Legislature of the State of Texas: That Article 822, Chapter 4, of Title 17 of the Penal Code of Texas, shall hereafter read as follows: The counties of Grayson, Freestone, Gonzales, Morris, Titus, Cass, Marion, Bowie, Red River, Trinity, San Jacinto, Polk, Anderson, Van Zandt, Cameron, Collin, Colorado, Grimes, Houston, Webb, Encinal, Hunt, Hopkins, Ellis, Dallas, Rockwall, Denton, Fannin, Henderson, Brazos, Smith, Panola, Gregg, Lamar, Wood, Rains, Limestone, Cooke, Brown, Comanche, Cherokee, Mills, Montgomery, Shelby, Lee, Burleson, Rusk, Lavaca, Milam, Wise, Upshur, Robertson, Camp, Parker, Franklin, Navarro, Karnes, Wilson, Atascosa, Harrison, San Augustine, Sabine, Fayette, Austin, Leon, Madison, Hill, Bosque, Waller, Fort Bend, Washington, Guadalupe, Caldwell, Hays, Tarrant, Johnston, Clay, Montague, Erath, Hood, Somervell, Bastrop, Harris, Orange, Jefferson, Hardin, Liberty, Chambers, Newton, Tyler, Jasper, Kaufman, Nacogdoches, De Witt, Victoria, Jackson, Calhoun, Refugio, Goliad, Aransas, Matagorda, Brazoria, Walker, Tom Green, Irion, Sterling, Crockett, Sutton, Edwards, Schleicher, Menard, Kimble, Runnels, and Coke, are exempted from the provisions of Articles 813 to 821 inclusive, of this chapter.

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Friday, the twenty-sixth day of March, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitu-

tion, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

Takes effect 90 days after adjournment.

S. B. No. 60.]

CHAPTER 69.

An act to amend Article 1180, Title XXX, Chapter 1, of the Revised Civil Statutes of the State of Texas, relating to the institution of suits on holidays and on Sunday.

Section 1. Be it enacted by the Legislature of the State of Texas: That Article 1180, of the Revised Civil Statutes of the State of Texas, as described in the caption of this act, be amended so as hereafter to read as follows:

Article 1180. No civil suit shall be commenced, nor shall any process be issued or served on Sunday or on any legal holiday, except in cases of injunction, attachment, garnishment, sequestration, or distress proceeding.

Approved, April 8, 1897.

Takes effect 90 days after adjournment.

H. B. No. 140.]

CHAPTER 70.

An act to amend Article 4744, Title XCVII, Chapter 4, of the Revised Civil Statutes of Texas, 1895, relating to powers and duties of overseers of public roads.

Section 1. Be it enacted by the Legislature of the State of Texas: That Article 4744 be amended so as to read as follows:

When to the overseers it may appear expedient to make causeways and build bridges, or to gravel any public road, the timber, gravel, earth, stone, or other necessary material, most convenient therefor, may be used, but in such case the owner of such timber, or gravel, earth, stone, or other necessary material, shall be paid out of the county treasury a fair compensation for the same, to be determined by the Commissioners Court upon the application of such owner.

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Friday, the twenty-sixth day of March, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

Takes effect 90 days after adjournment.

H. B. No. 389.]

CHAPTER 71.

An act to amend subdivision thirty two, of Article 22, Title IV, of the Revised Civil Statutes of Texas, fixing the time for holding the District Court in the 32nd Judicial District.

Section 1. Be it enacted by the Legislature of the State of Texas: That Subdivision 32 of Article 22, Title IV of the Revised Civil Statutes of Texas, be so amended as to hereafter read as follows:

32. The Thirty-second Judicial District shall be composed of the counties of Nolan, Mitchell, Howard, Martin, Midland, Borden, Glasscock, Ector, and the unorganized counties of Andrews, Gaines, Dawson, Terry, Yoakum, Crane, Upton, Garza, and Lynn, and the terms of the District Court therein shall be held each year as follows:

In the County of Midland, on the first Mondays in February and September in each year, and may continue in session two weeks.

In the County of Martin, on the third Mondays in February and September in each year, and may continue in session two weeks.

In the County of Howard, on the fourth Monday after the first Mondays in February and September of each year, and may continue in session two weeks.

In the County of Nolan on the ninth Mondays after the first Mondays in February and September, and may continue in session four weeks.

In the County of Mitchell, on the fifteenth Mondays after the first Mondays in February and September in each year, and may continue in session until all business is disposed of.

In the County of Ector, on the thirteenth Mondays after the first Mondays in February and September in each year, and may continue in session two weeks.

In the County of Borden, on the seventh Mondays after the first Mondays in February and September in each year, and may continue in session two weeks.

In the County of Glasscock, on the sixth Mondays after the first Mondays in February and September in each year, and may continue in session one week.

The unorganized counties of Gaines, Terry, Yoakum, and Andrews, are hereby attached to the County of Martin for judicial purposes.

The unorganized county of Dawson is hereby attached to the county of Howard for judicial purposes.

The unorganized counties of Crane and Upton are hereby attached to the county of Midland for judicial purposes.

The unorganized county of Garza is hereby attached to the county of Borden for judicial purposes.

Sec. 2. The fact that the time for holding the Spring term of the District Court of Nolan County is approaching, the crowded condition of the dockets of said court, and the fact that the amendment herein offered in no way affects the time heretofore provided by law for holding said court in the several counties composing said 32nd Judicial District, creates an emergency and an imperative public necessity requiring the constitutional rule that bills shall be read on three several days, be suspended, and that this act take effect from and after its passage, and it is so enacted.

[Note.—Received the necessary two-thirds vote in both Houses, and takes effect from its passage.]

H. B. No. 613.]

CHAPTER 72.

An act to set apart for free school purposes four leagues of land heretofore granted to the territory known as Greer County, and to authorize the Attorney General to institute proceedings for the recovery of said land.

Section 1. Be it enacted by the Legislature of the State of Texas: That the four leagues of land heretofore patented to what is known as the territory of Greer County for free school purposes, under the provisions of an act entitled, "An act to reserve and set apart three hundred and twenty-five leagues of land heretofore surveyed for the benefit of the unorganized counties of the State, and such organized counties as may have located their four leagues of school land, or any part thereof in conflict with valid prior locations or surveys, or which from any cause fail to get title to the four leagues of land they are entitled to under the law," approved April 7th, 1883, be and the same is hereby set apart and appropriated for the support and maintenance of the Public Free Schools of this State.

Sec. 2. That the Attorney General of the State of Texas is hereby authorized to institute such proceedings as he deems necessary to recover said land against all adverse claims.

Sec. 3. That all laws and parts of laws in conflict herewith be and the same are hereby repealed.

Sec. 4. The near approach of the close of the present session, and the crowded condition of the calendar, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved, April 13, 1897.

[Note.—The foregoing act passed the House by a two-thirds vote, yeas 97, nays none; and passed the Senate by a two-thirds vote, yeas 24, nays none.]

H. B. No. 443.]

CHAPTER 73.

An act to create a more efficient road system for Hopkins County, Texas, and making the County Commissioners of said county ex-officio road commissioners, and prescribing their duties as such, and providing for their compensation as road commissioners, and providing for the appointment of road overseers, and defining their duties, and for the working of county convicts upon the roads of said county, and providing for officers and witness fees, and rewards for the capture of escaped convicts, and authorizing the working of county convicts partly upon the county convict farm, as well as upon the public roads, or partly upon both, in the discretion of the Commissioners' Court, and making provisions of act applicable, as far as practicable, to convicts when worked on county farm, and to provide for the manner of training hedges along public roads, and to provide for the summoning of teams for road work, and for an allowance of time for road service for same, and fixing a penalty for a violation of this act, and repeal all laws in conflict with this act as to Hopkins County, and providing for the working of delinquent poll-tax payers, and prescribing a penalty for failure to work public roads in payment of poll-tax by said delinquent poll-tax payers.

Section 1. Be it enacted by the Legislature of the State of Texas: That the members of the commissioners' court of Hopkins county shall be ex officio road commissioners of their respective districts, and under the direction of the commissioners' court shall have charge of all the teams, tools, and machinery belonging to the county, and placed in their hands by said county, and it shall be their duty, under such rules and regulations as the commissioners' court may prescribe, to superintend the laying out of new roads, the making or changing of roads, and the building of bridges. Each of said commissioners shall, before entering upon the duties of his office, in addition to his regular bond as such county commissioner, execute a bond of one thousand dollars, with two or more good and sufficient sureties, payable to the county judge of said county for the use and benefit of the road and bridge fund, conditioned that they will perform all the duties required of them by law, or by the commissioners' court, and that they will account for all money or property belonging to the county that may come into their possession; provided, that with the consent of the commissioners' court any one of said commissioners shall be allowed to appoint any competent person as deputy road commissioner, who shall be required to execute same bond that is required of commissioners in this section, and such deputy road commissioner shall be entitled to the same compensation that is allowed county commissioners for same service; provided, that county commissioners shall not be allowed any compensation when a deputy road commissioner has been appointed.

Sec. 2. The commissioners' court of said county shall have full power and authority, and it shall be its duty, to adopt such system for working, laying out, draining, and repairing the public roads in said county as it may deem best, and from time to time said court may change its plans or system of working. Said commissioners' court shall have full power to purchase such teams, tools, and machinery as may be necessary for the working of its roads. Said court shall have power to construct, grade, or otherwise improve any road or bridge by contract. In such case said court, or county judge of said county, may advertise in such manner as said court may determine for bids to do such work, and the

contract shall be awarded to the lowest responsible bidder, who shall enter into bond, payable to the county judge of said county, for the use of the road and bridge fund, with good and sufficient sureties, to be approved by said court, and in such sum as said court may determine, for the faithful compliance with the terms of said contract; but said court shall have the right to reject any and all bids. At the time of making such contract, the court shall direct the county treasurer to pass the amount to a particular fund for that purpose, and the treasurer shall keep a separate account of such funds, and the same shall not be used for any other purpose, and can only be paid out on the order of said court; and the said court shall have authority to employ any hands or teams to work on the roads under such regulations and for such price as they may deem best.

Sec. 3. The commissioners' court of said county shall require all county convicts, not otherwise employed, to labor upon the public roads under such regulations as they may prescribe, and each convict so worked shall receive a credit of fifty cents, on his fine first, and then on the cost, for each day he may labor. The commissioners' court may provide such reasonable regulations and punishments as may be necessary to require such convicts to perform good work; and may provide a reward not to exceed ten dollars, to be paid out of the road and bridge fund, for the recapture and delivery of any escaped convict, to be paid to any person, other than the guard or person in charge of such convict at the time of his escape. The commissioners' court may grant a reasonable commutation of time for which a convict is committed as a reward for faithful services and good behavior, in no case to exceed one-tenth of the time. Said court may provide the necessary houses, prisons, clothing, bedding, food, medicine, and medical attention, and guards for the safe and humane keeping of convicts. The commissioners' court may at a regular meeting allow to the officers and witnesses such amount of their cost for the arrest and conviction of said convict, as now provided by law, which amount shall be paid out of the road and bridge fund, upon the order of said court, when said fine and costs have been worked out, as provided in this section; provided, that this act shall not be construed so as to relieve any convict from the payment of all costs for which he would be liable under the general laws of this State. Nothing in this section shall be construed so as to deprive the commissioners' court of the right to have convicts to work a part of all of their time on the county convict farm; but authority is herein expressly given to said court to require convicts to labor, in payment of fine and cost, either upon the county convict farm, or upon the public roads, or partly upon both, as to the said court it may seem best, and the provisions of this section shall apply, as far as practicable, in all cases where convicts labor upon the county convict farm.

Sec. 4. Each county commissioner shall have control of all road overseers in his district, and shall deliver to each of them, so far as he has been supplied by the commissioners' court, all teams, tools, and machinery necessary in working the roads in the district of said overseer, taking receipt of said overseer therefor, specifying each item and giving its value, which receipt shall be a full answer of the liability of the commissioner, and shall fix the liabilities of the overseer; and any commissioner or over-

seer who shall have been entrusted with any teams, tools or machinery belonging to said county, shall be liable for any damage that may occur to the same while in his possession caused by negligence or want of due care of same, and shall not use or permit the same to be used for private purposes without the consent of the commissioners' court. It shall be the duty of the road overseer when he has finished work on his road to return to said commissioners all teams, tools, and machinery received from them by him and take up the receipt given therefor.

Sec. 5. It shall be the duty of the commissioners, when acting as road commissioners, to inform themselves of the condition of the public roads in their districts, and they shall determine what character of work shall be done upon said roads, and shall direct the manner of grading, draining or otherwise improving the same, which direction shall be observed and obeyed by all overseers of his district.

Sec. 6. The commissioners may require each overseer in his district to call out the hands in such numbers as may be sufficient to perform the work, but no road hand shall be required to work exceeding five days in any one year, or two days with himself and team, unless the term of service as prescribed by the general laws shall be extended beyond that time; provided, that all road hands in any particular district shall, as far as practicable, be worked a uniform time. Each road overseer, or in case of his absence, any person deputized by him, shall have full control of all road hands within his road district, and shall see that each hand when called out shall perform a good day's work; and if any hand, when so called out, shall fail or refuse to do a good day's work, or to work in the manner the overseer may direct, he shall be liable to the same penalty as if he had failed to appear in obedience to the summons. The commissioners' court may allow any overseer who shall be engaged in the discharge of the duties of his office for more than five days during any one year a compensation not to exceed one dollar and fifty cents per day for the time so served.

Sec. 7. Any citizen of Hopkins county who is subject to road duty, who shall, on or before the first day of January of any year, pay to the county treasurer of said county, the sum of three dollars, shall be exempt from road duty for such year, beginning on the first day of January. The treasurer shall receive and receipt for all money so paid him and place the same to the credit of the road and bridge fund, to be used in the road precinct to which the hand making such payment belongs. The treasurer shall, on the third day of January, or as soon thereafter as practicable, furnish the commissioners' court with a list of all parties who have paid said sums as provided in this section, and said court shall immediately have overseers in district wherein said sums have been paid notified of the payment of the same, and by whom paid.

Sec. 8. Every person liable to work on the public roads in Hopkins county, who shall pay to his road overseer at any time before the day appointed to work on his road, the sum of one dollar for each day that he is summoned to work, shall be exempt from work for each day paid for.

Sec. 9. Each person summoned to work on the road shall take with him an axe, hoe, pick, spade, shovel, plow, scraper or such other tools as may be desired and directed by the overseer, or if he has no such tools as are desired and directed by the overseer to take with him, he shall take such

other suitable tools as he may have; provided, the county shall be liable for, and the commissioners' court, under such regulations as they may prescribe, shall pay for all such breakage or damage to tools as may have resulted from public road work, and not caused by the negligence of the person furnishing the same. Such overseer may also summon and require such road hand to bring with him for road work such team or teams as he may have on hand suitable for road work; provided, such hand shall be allowed two and one-half days time for each day put in by a hand and his team, and one and one-half days for his team without such hand.

Sec. 10. If any person liable to work the public road, after being legally summoned, shall intentionally fail or refuse to attend either in person or by an able and competent substitute, or fail or refuse to furnish his team or tools at the time and place designated by the person summoning him, or to pay to the overseer such sum as one dollar per day for each day summoned to work, he shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in any sum not to exceed ten dollars.

Sec. 11. At the regular term of the commissioners' court of each year all road overseers shall make their report under oath, upon the forms to be furnished them by the said court, which said report shall be examined by said court, and all accounts for services or labor performed for overwork by such overseer during the past year, and of moneys had and expended by him, shall be audited and settled; and as soon thereafter as practicable said commissioners' court shall appoint and commission road overseers for the succeeding year. Any overseer intentionally failing to perform his duties as such overseer or failing or refusing to serve and perform the duties of overseer when appointed by said court, or to perform any other duty required of him by law or by the commissioners' court, or by the commissioner of his district, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not exceeding twenty-five dollars.

Sec. 12. Whenever it shall be necessary to occupy any land for the opening, widening, straightening, changing or draining any road or any part thereof, if the owner of said land cannot agree with the court as to damages to be paid, the court may proceed to condemn the same, in the same manner that a railroad company can condemn land for a right of way, and the same proceedings may be had and the same right shall exist to each party that would exist if the proceedings were by a railroad company, except that the county shall in no case be required to give bond.

Sec. 13. Each county commissioner, when acting as road commissioner, shall be entitled to two dollars per day for services actually performed; provided, that he shall not receive more than ninety dollars per quarter; said per diem to be paid out of the road and bridge fund when the account shall have been approved by the commissioners' court; and the court shall not approve said account unless the commissioner presenting it shall make oath that the account is just, due, and unpaid; and said account shall specify the number of days work actually performed by him, and that it was necessary to be done under the circumstances; and no commissioner shall be entitled to pay as road commissioner, either for himself or his deputy, while performing the duties of county commissioner, nor shall he receive any additional pay than that provided

by this section for inspecting or riding over his road, or for other road service.

Sec. 14. Every owner of a farm or other lands upon which a hedge of any description grows on or near the public road, shall be required to keep the same trimmed so that the same shall not obstruct said road; and any such owners who shall fail or neglect to trim such hedge shall be notified in writing by the road overseer of that district to trim such hedge as herein required, and in such case that such owner shall after receiving such notice, fail or refuse to trim such hedge within a reasonable time, he shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not exceeding twenty dollars per week from and after the time that he received such notice, such fine to be paid into the county treasury and to be placed to the credit of the road and bridge fund of said county. If any owner of any farm shall fail or refuse, after being notified as herein required, to trim his hedge as required by this act, then the road overseer shall cause the same to be trimmed in accordance with the provisions of this act, to be paid for out of the road and bridge fund of the county.

Sec. 15. In all cases where the cost of material and labor exceeds two hundred dollars, it shall be the duty of said court to construct, grade, or otherwise improve any road or bridge by contract, the same to be advertised for as provided by said commissioners' court.

Sec. 16. This act shall be taken notice of by all courts in the same manner as the general law of the State, and it shall be construed to be cumulative of all general laws of the State on the subject of roads and bridges when not in conflict therewith; but in case of conflict, this act shall control as to the county of Hopkins.

Sec. 17. The fact that there is now no sufficient general road law in force in this State, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act passed the House by a two-thirds vote, yeas 94, nays none; and passed the Senate by a two-thirds vote, yeas 21, nays none.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Wednesday, the thirty-first day of March, A. D. 1897, but was not signed by him nor returned to the house in which it originated within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

H. B. No. 387.]

CHAPTER 74.

An act to restore to and confer upon the County Court of Orange County the criminal jurisdiction heretofore belonging to it under the constitution and general statutes of the State of Texas, to conform the jurisdiction of the District Court to such change, and to repeal all laws in conflict with the provisions of this act.

Section 1. Be it enacted by the Legislature of the State of Texas: That the County Court of Orange County shall hereafter have exclusive original jurisdiction of all misdemeanors except misdemeanors involving official misconduct, and except cases in which the highest penalty of fine that may be imposed under the law, may not exceed two hundred dollars; and shall also have appellate jurisdiction in criminal cases of which justices of the peace, and other inferior tribunals of said county, have original jurisdiction.

Sec. 2. Said County Court shall have jurisdiction in the forfeiture and judgment of all bonds and recognizances taken in all criminal cases, of which criminal cases said court has jurisdiction.

Sec. 3. The County Judge of said county shall have authority, either in term time or vacation, to issue all writs necessary to the enforcement to [of] the jurisdiction of said court, and to issue writs of habeas corpus in all cases in which the Constitution has not conferred power on the District Court or judge thereof.

Sec. 4. The District Court of said Orange County shall no longer have jurisdiction of which the County Court of Orange County, by the provisions of this act, has exclusive original or appellate jurisdiction; and it shall be the duty of the District Clerk of said county, within thirty days after the passage of this act, to make a full and complete transcript of all orders on the dockets in cases now pending before the District Court, of which cases, by the terms of this act, exclusive original or appellate jurisdiction is given to the County Court, and said District and County Clerk shall enter said orders on the proper dockets of said County Court and docket the cases for trial by said County Court.

Sec. 5. The County Court of said county shall hereafter hold its regular term for criminal business as provided in the Constitution and general laws of the State of Texas for civil and criminal terms of the county courts, and all process heretofore issued from the District Court of said county in cases to be transferred under this act to the County Court shall be returnable to the first term of the said County Court thereafter.

Sec. 6. All laws in conflict with the provisions of this act are hereby repealed.

Sec. 7. The crowded condition of the docket of the District Court of Orange County creates an emergency and an imperative public necessity that the rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act passed the House by a two-thirds vote, yeas 90, nays none; and passed the Senate by a two-thirds vote, yeas 21, nays none.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Wednesday, the thirty-first day of March, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

S. B. No. 288.]

CHAPTER 75.

An act to authorize the Gulf, Colorado & Santa Fe Railway Company to purchase the Texas, Louisiana & Eastern railroad, and to operate the same under the charter of the Gulf, Colorado & Santa Fe Railway Company, as a part of its own line, with the right to extend the same and to construct branches therefrom, by amendment of its charter, under the general laws of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas: The Gulf, Colorado & Santa Fe Railway Company is hereby authorized and empowered to purchase the Texas, Louisiana & Eastern railroad, extending from Conroe, in Montgomery County, Texas, to a point on the Trinity river, in Liberty county, Texas, in the John Cherry survey; the same now being constructed and in operation to a point about seven miles from the Trinity river and about thirty-one miles from Conroe; together with all the property, real, personal, and mixed, incident or pertaining to the said railroad; and the owner or owners of the said Texas, Louisiana & Eastern railroad, and of such property incident or pertaining thereto, are authorized and empowered to sell, transfer and convey the same to the Gulf, Colorado & Santa Fe Railway Company; and when the said property is purchased by the said Gulf, Colorado & Santa Fe Railway Company, it, the said Gulf, Colorado & Santa Fe Railway Company, shall, and it is hereby authorized to, own and operate the same under its charter as a part of its own line, and shall have the right, by amendment of its charter under the general laws of the State, to extend and construct branches of the said road or the extension thereof.

Sec. 2. The said Gulf, Colorado & Santa Fe Railway Company shall not pay more for the said property than the valuation fixed on the same by the Railroad Commission of Texas; and if the said Gulf, Colorado & Santa Fe Railway Company shall issue any stock or bonds to make payment for the same, the said stock and bonds shall not be so used at less than their par value; and all stock and bonds to be issued by the Gulf, Colorado & Santa Fe Railway Company in payment for or on the said property, or on any extension or branch thereof, or on any branch of such extension, shall be issued subject to and under the provisions of chapter 14 of title XCIV of the Revised Civil Statutes of the State of Texas, which regulates the issuance of stock and bonds.

Sec. 3. The fact that the public interest will be promoted by the purchase of the said property by the Gulf, Colorado & Santa Fe Railway Company, and the extension thereof, and the great number of bills now pending before the legislature, creates an imperative public necessity and emergency requiring the suspension of the constitutional rule requiring bills to be read on three several days, and the same is so suspended, and

that this act shall take effect from and after its passage, and it is so enacted.

[Note.—The foregoing act passed the Senate by a two-thirds vote, yeas 22, nays 1; and passed the House by a two-thirds vote, yeas 94, nays 1.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Wednesday, the thirty-first day of March, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

S. B. No. 291.]

CHAPTER 76.

An act to amend Subdivision 15 of Article 22 of the Revised Civil Statutes of the State of Texas, relative to the time of holding the terms of the District Court in the Fifteenth Judicial District of Texas, passed by the Twenty-fourth Legislature in the year 1895, and to repeal all laws in conflict with this act.

Section 1. Be it enacted by the Legislature of the State of Texas: That Subdivision 15, of Article 22, of the Revised Statutes of the State of Texas, passed by the Twenty-fourth Legislature in the year 1895, be and the same is hereby amended so that hereafter it shall provide as follows:

15. The Fifteenth Judicial District of the State of Texas, shall be composed of the County of Grayson, and the District Courts shall be held therein as follows:

A term beginning on the third Monday in September of each year, and may continue in session until, and including, the last Saturday in December.

A term beginning on the first Monday in January of each year, and may continue until, and including, the last Saturday in March of each year; provided, there shall be no grand juries elected and impanelled for said January terms of court.

A term beginning on the first Monday in April of each year, and may continue until the business is disposed of.

Sec. 2. That all laws and parts of laws in conflict herewith be, and the same are hereby repealed.

Sec. 3. The near approach of the close of the present session of the Legislature, and the inconvenient time for the holding of the Fall term of the District Court in said Grayson County, creates an emergency and an imperative public necessity, that the constitutional rule requiring bills to be read on three several days in both houses, be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act passed the Senate by a two-thirds vote, yeas 25, nays none; and passed the House (vote not given).]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Wednesday, the thirty-first day of March, A. D. 1897,

but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

H. B. No. 351.]

CHAPTER 77.

An act to provide for the construction and maintenance of drains, ditches and water courses, and for the improvement and enlargement of natural drainage of the several counties within the State of Texas, and to repeal all laws in conflict with this act.

Section 1. Be it enacted by the Legislature of the State of Texas: That the commissioners' court of any county in this State, at any regular or called session thereof, may, in the maner hereinafter provided, and shall have power, whenever the same shall be conducive to the public health, convenience, or welfare, or where and whenever the same will be of public benefit or utility, to cause to be straightened, widened, altered, deepened, any creek, bayou, or other stream or water course, and shall cause to be constructed and maintained, as hereinafter provided, any ditch, drain, or water course within any of the said counties, and shall have power to make the said improvement, if necessary, by removing from any adjacent lands or any stream or water course, any timber, bush, tree or other substance liable to or causing the obstruction thereof, and shall also have power to construct in connection with any such ditch or drain, any side, lateral, spur, or branch ditch or water course necessary to the accomplishment of this act; provided, however, that no ditch, drain, outlet, or water course shall be deepened, widened, constructed, or maintained without a sufficient outlet being provided for all water that may collect therein; provided, further, that the word "ditch," in this act, hereafter shall be construed to embrace any ditch, drain, or water course that may be constructed under the provisions of this act.

Sec. 2. That before the commissioners' court of such county shall establish any ditch, drain, or water course, there shall be filed with the clerk of the county court of said county, a petition signed by at least five persons who are land owners and whose land will be liable to be affected by or assessed for the expense of the construction of the same, setting forth the necessity thereof, with a general description of the proposed starting point, route, and terminus of the said ditch; and said petitioners shall give a bond, not to exceed one hundred dollars, with good and sufficient sureties, payable to the said county, to be approved by the clerk of the said court, conditioned to pay all expenses in case the commissioners' court shall fail to establish said proposed ditch, drain, or water course. As soon as said petition is filed said court shall, if in regular session, or at their next regular session, appoint a jury of three freeholders and householders of the county, not interested in the construction of the proposed work, and not of kin to any of the parties interested therein, who shall constitute a jury of viewers, who shall meet at a time and place specified by the said court in the order of making said appointment preparatory to commencing their duties as hereinafter specified, and it shall be the duty of the said clerk of the said county court thereupon to issue

to the said viewers a certified copy of the petition and order of said court, who shall proceed at the time set in said order, with a surveyor who shall be a civil engineer and surveyor, to make an accurate survey of the line of said ditch, drain, or water course, from its source to its outlet; and they shall cause stakes or monuments to be set along said line at intervals of one hundred feet, together with such intermediate stakes as may be necessary, and numbered progressively at each one hundred feet; and they shall establish permanent bench marks along said line, at intervals of one mile or less, as may be necessary; and they shall prepare a map showing the location of said ditch, drain, or water course, together with the position of stakes or monuments, with numbers corresponding with those on the ground, and the position of bench marks, with their elevation referred to on assumed or previously determined datum. The map should also show the lines and boundaries of adjacent property, and the position of county roads and railroads which may be affected by said ditch or drain, and such information should be obtained as will lead to the determination of the benefits or damages which will accrue from the construction of the same; and they shall prepare a profile of the line of said ditch, drain, or water course, which shall show the assumed datum and the grade line of the bottom of the same, and the elevation of each stake or monument and other important features along the line, such as top of bank and bottom of all ditches or water course and surface of water, top of rail and bottom of tie, foot of embankment, bottom of burrow pits, of all railroads, and center of road and bottom and top of ditches of highways. And they shall, in tabular form, give the depth of cut, width at bottom, and width at top at the source, outlet, and at each one hundred feet stake or monument of said ditch, drain, or water course; and they shall make a computation of the total number of cubic yards of earth to be excavated and removed from said ditch, drain, or water course and an estimate of the total cost of construction of the whole work, and they shall prepare specifications in detail for the execution of the same; and they shall have power when they find it necessary, to provide for running said ditch under ground through drain tiles or other materials as they may deem best, by specifying size of tile or other kind of material to be used in such underground work, and shall include the cost of same in the estimate of the total cost of the work; and they shall set apart and apportion to each parcel of land and to each corporation, road or railroad, and to the county when public highways are benefited, a share of said work in proportion to the benefits which will result to each from such improvement and the cost of the construction of each share or allotment separately. And they shall describe each parcel of land to be assessed in the construction of said ditch, giving the number of acres in each tract assessed and an estimate of the number of acres benefited, the amount that each tract will be benefited by the construction of said work, and the amount of each tract as assessed therefor; and they shall also ascertain and give the names of the owners of the lands that are assessed in the construction of said ditch, drain, or water course, as far as they may be able to ascertain by reasonable inquiry and search of the public records, and report whether or not the proposed ditch or drain will be of public utility; and they shall submit with their report a copy of the map and profile of the line of said ditch, drain, or water course, and a copy of the specifications

for the construction of the same, which, together with the report, shall become a public record, and shall be placed in the custody of the county clerk, to be presented [preserved] as such.

Sec. 3. Whenever a public ditch, drain, or water course is located wholly or in part of the bed of a private ditch, already or partially constructed, the viewers shall make an estimate of the number of cubic yards of earth already excavated, and the cost of the same on each tract of land, and deduct the same from the assessment thereon.

Sec. 4. All lands benefited by public ditch, drain, or water course shall be assessed in proportion to the benefit to the said lands by the construction thereof, whether it passed through said lands or not; and the reviewers in estimating the benefit to the lands in controversy by said ditch, shall not consider what benefit such lands will receive after some other ditch or ditches shall be constructed, but only the benefits that may be received by reason of the construction of the public ditch as it affords an outlet for the drainage of such lands; and in the making of the said assessment should the viewers find that the construction of said ditch or drain would, to any extent, construct or constitute a public road of utility to the county in that section, or be a material benefit in the drainage of any public road then constructed, they will assess as against the county such sum as will represent the benefit so accruing to the public; provided, that all assessments for benefits accruing to counties or county roads, shall be approved by the commissioners' courts of such counties.

Sec. 5. The said jury of viewers, as provided for in this act, shall issue a notice in writing to the land owner through whose lands such proposed ditch or drain may run, or to his or their agent or attorney, of the time when they shall proceed to lay out such ditch, or when they will assess the damage incidental to the construction of same, which notice shall be served upon such owner, his agent or attorney, at least five days before the day named therein; if such owner is a non-resident of the county, the notice shall be given by publication in a newspaper published in the county as notices are required to be given to non-resident defendants as to actions in the district or county court, and such ditch or drain may be constructed four weeks after such publication, the cost of publishing the same to be paid as directed by the commissioners' court.

Sec. 6. That all persons whose land may be affected by such ditch, drain, or water course, shall have the right to appear before said viewers and freely express their opinions on all matters pertaining thereto, and the owner of any such lands may, at the time stated in said notice, or previously thereto, present to the jury a statement in writing of any objections or dissatisfaction therewith, and any claim for damages which he may have by reason of the making of the said ditch or drain; and a failure to make such claim in writing, as herein specified, for damages or compensation, shall be deemed and held a waiver for all right thereto, all of which said claim or objection shall be returned to the commissioners' court, in connection with the report of the said viewers.

Sec. 7. The commissioners' court at the time set for the hearing of said petition shall hear and determine the same in connection with all remonstrances or objections thereto, and if they find that the said viewers' report is made in accordance with the provisions of this act, and it be in

favor of the proposed work, and if they find the proposed ditch or drain to be of public utility, or conducive to public health, or of public benefit or convenience, they shall enter an order on the minutes establishing the same, as specified in the said report, and order the same to be constructed according to the said report, and shall then or thereafter take such further action and make such other and further orders and decrees in the premises as may be proper or necessary to secure the execution of said work. But should said viewers report adversely to the said work, the board shall dismiss the petition and tax the costs as against the said petitioners.

Sec. 8. The said viewers, before proceeding to act as such, shall take the following oath, before any officer authorized to administer oaths, to-wit: "I do solemnly swear that I will lay out the ditch or drain now directed to be laid out by the order to us directed in the commissioners' court, according to law, without favor or affection, malice or hatred, to the best of my ability, skill, and knowledge, so, help me God."

Sec. 9. Any person or corporation aggrieved thereby may appeal from the final order of the commissioners' court made in said proceedings and entered upon their record to the county court of that county within ten days thereafter, by filing within ten days thereafter a transcript of said proceedings in said county court, and also filing within the said ten days, with the clerk of the said court, an appeal bond, with at least two good sureties, to be approved by the said county clerk, conditioned that he will prosecute such appeal to effect and pay all costs that may be adjudged against him in said court; and the said appeal shall be heard and determined upon the following issues, to-wit:

1. Whether said ditch shall be conducive to the public health, convenience, or welfare.

2. Whether the route thereof is practicable.

3. Whether the assessments made for the construction of such ditch are in proportion to the benefits to be derived therefrom.

4. The amount of damages, if any, to be allowed to any person or persons, or corporation; and if more than one person appeal, the judge of the said court shall order the said cases to be consolidated and tried together, and the rights of each party shall be separately determined by the said court and jury, if any, in its verdict and final determination, and the cause so appealed and conducted in said county court shall have precedence over all other causes on the docket of a different nature, and shall be tried and determined as other civil cases in said court. Either party to such action may appeal to such appellate court as has jurisdiction of said cause, and said action shall be returnable at once to said appellate court at either of its terms, and said action so filed shall have precedence in said appellate court of all cases of a different character therein pending.

Sec. 10. In the trial of all cases so appealed from the order of the commissioners' court the burden of proof shall rest upon the complainant.

Sec. 11. Every person or corporation through whose lands any public ditch is constructed shall be required to keep the same open, free and clear from all obstructions upon his or its premises, by him or it placed therein, and in case of failure to do so, shall be liable to pay all reasonable and necessary expenses of removing such obstructions.

Sec. 12. Whenever the route of the proposed ditch, drain, or water course extends into two or more counties, then a petition shall be signed

by at least five freeholders, one or more of whom are land owners in the county other than that of the filing of the petition, and whose lands will be liable to be assessed for the construction of such ditch, and file the same with the clerk of the commissioners' court, the said petition to be filed in the county containing the head or source of the proposed ditch, at least ten days before any regular meeting of the commissioners' court of that county, and thereupon the clerk of such court shall transmit to the clerk of the court of such other county or counties interested therein, a certified copy of such petition; and it shall be the duty of the commissioners' court of each county interested in the proposed work, at their first regular session after such petition is filed, to appoint three disinterested free holders and house holders of their respective counties as viewers, in like manner as is provided for the appointment of viewers on a ditch in but one county, to meet and act jointly at such time and place as the board of commissioners of the county where the petition is filed may designate, and such joint viewers shall have the same power and perform the same duties as is provided in this act for the viewers on a ditch in one county; and they shall file a report of their proceedings with the clerk of each of said counties so interested at least two weeks before the next regular session of the board of commissioners, whereupon the clerk of each county shall give notice in the manner provided for as to ditches in one county, and the time for the hearing thereof shall be set by the respective courts of each county; provided, further, that in an action of a joint board of viewers the approval and report a majority of the whole board shall be necessary to constitute a valid report of said board.

Sec. 13. The joint board of viewers, as herein provided for of the counties interested in said joint ditch, shall proceed to establish the same in the manner specified in ditches in but one county, and all matters pertaining to such joint ditch, the board of commissioners shall act in the same manner, so far as is practicable, as is required by this act for ditches in but one county, and they shall act jointly, and the same shall be determined by the respective orders of the said respective commissioners' courts, and such further proceedings had thereon, as herein provided for in but one county.

Sec. 14. When any ditch established under this act drains either in whole or in part any public road or railroad, or benefits any such road or railroad, so that the roadbed or travel or track of any such road will be made better by the construction of any such ditch, then the jury of viewers shall apportion to any such county, if the same be a public road, or to such railroad, if the same be a railroad, such portion of the costs and expenses thereof as herein provided for to private individuals.

Sec. 15. If any person shall willfully obstruct any public ditch, or shall willfully divert the water from its proper channel, he shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not less than five nor more than five hundred dollars, and shall also be liable for any and all damages accruing to any person or persons or corporation or county for any such act.

Sec. 16. That in all reports made by any jury of viewers, the same shall be sufficient if signed by a majority of said viewers.

Sec. 17. The said jury of viewers shall each receive the sum of \$3.00

per day as compensation for said work for each day so actually engaged. The said surveyor and engineer shall receive such compensation as shall be fixed by the commissioners' court.

Sec. 18. That when any drain or ditch shall have been established by order of the commissioners' court, under this act, all assessments, sums, and charges by the said viewers under the order of the said court assessed against any land, or lands, chargeable for this drain or ditch, shall be a lien thereon, and a separate roll of the said assessments made of the lands assessed for each ditch, shall be made by the State and county collector for the said county; and the same shall at all times be open to the inspection of the public, and the assessments and taxes for each particular drain shall be a lien upon each particular tract of land connected therewith, and the same shall be collected by the tax collector of each county, under the provisions of the general laws for the collection of taxes for the State of Texas. That the funds arising from the assessment of each drain or ditch, shall be a special fund for the construction of said drain or ditch, and by order of the commissioners' court, set apart for the same, and placed in the county treasury as such special fund, for such purpose, to be paid to the contractor or contractors, upon the order of the commissioners' court as hereinafter provided. That any damages, if any, that the said jury of viewers or commissioners' court shall assess in favor of any individual or corporation, shall be paid out of the county treasury upon the order of the said court; and any sums assessed against any county, on account of any public drain, shall be paid by the said county, under an order of the commissioners' court.

Sec. 19. That the engineer employed by the said county to superintend the construction of the said drains and ditches, shall, upon the completion of each and every two hundred feet of any ditch, give to the contractor or contractors his certificate as such engineer, the said certificate showing the amount of work done and an estimate of the amount due for the construction of the same, less ten per cent thereof, which said certificate shall be delivered to the said contractor as an evidence of the amount of work constructed, and of the amount due therefor.

Sec. 20. That when the commissioners' court of any county shall have, by proper order, established any drain or ditch, the construction of the same shall be let by the said commissioners' court to the lowest responsible bidder, after suitable advertising, as a whole, or in such sections or subdivisions as the board may deem most advantageous. Such work to be done under the direction and supervision of the said engineer who shall report the same to the commissioners' court for their final action. That the said contractor or contractors shall be required to give a good and sufficient bond, with two or more good and sufficient sureties to be approved by the said commissioners' court in an amount to be fixed by the said court, as in their judgment may be best for the faithful construction of the said work. Provided, however, that any persons through whose lands the proposed work shall pass, upon application to the commissioners' court, before the contract is let, shall be entitled to do so much of the proposed work as is upon, or passes through his lands. Provided, such application shall be made twenty days before the advertisement for the said contract; and provided he shall undertake to do such work upon equally favorable terms with those offered by any one

else. And provided, further, that he shall execute such a bond as required by the said contractor. And if such person should fail to construct such work as hereinbefore provided by the said contractor, within the time required by the commissioners' court, then all right to construct the same shall be forfeited and cease and determine; and the commissioners' court shall let the construction of the same as in this act provided.

Sec. 21. The commissioners' court shall pay the said contractor or contractors, or persons constructing the said drain, out of any funds in the county treasury not otherwise appropriated, and belonging to the road and bridge fund of the said county, upon the report of the said engineer, by said court approved, from time to time as the said contract progresses, and according to such terms as they may agree upon with such contractor. The said money so drawn from the road and bridge fund of the said county, to be returned from the assessment collected upon the said drain when the same shall be put into the county treasury. Said reimbursement to be made to the said fund by order of the commissioners' court.

Sec. 22. That all liens, remedies, and modes of procedure by the laws of the State of Texas, now provided for the collection of ad valorem taxes and taxes upon real estate, shall obtain and be in force and apply for the collection for the assessments herein provided, for the construction of the said drains.

Sec. 23. Corporations may be formed and chartered under the provisions of this act, and under the general corporation laws of the State of Texas, for the purpose of constructing, maintaining, and operating canals, drains, and ditches outside of the corporate limits of cities and towns in any county in the State of Texas; and such corporation shall have full power and authority to make contracts for permanent drainage of any tract of land, and the charges therefor; and the rights therein shall be secured by a lien herein expressly given upon the lands benefited by the said drain or canal. All drains and canals so constructed by such corporation to be reported to the commissioners' court of the said county and approved by the same.

Sec. 24. Any corporation so organized under the provisions of the general laws of the State of Texas, or the provisions of this act, for the purpose of drainage, shall have the power to acquire lands by voluntary donations or by purchase, or in payment of stock or drainage rights; and to hold and dispose of the said lands and other property; and to borrow money for the construction, maintenance and operation of its ditches and canals and laterals, and may issue bonds and mortgage its corporate and other property and franchises, to secure the payment of any debts contracted for the same. Provided, all lands acquired by the said corporations, except such as are used for the construction, maintenance and operation of the said canals, drains, and ditches and laterals, shall be alienated within twenty years from the date of acquiring the same, or be subject to judicial forfeiture.

Sec. 25. All laws and parts of laws in conflict herewith are hereby repealed.

Sec. 26. Whereas, there is now no law upon the subject, and an imperative public necessity and emergency exists that this bill should become a law and take effect at once; therefore, be it resolved, that the con-

stitutional rule requiring bills to be read on three several days, be suspended, and that this bill be placed on its third reading, become a law, and take effect immediately after its passage, and it is so enacted.

[Note.—The foregoing act passed the House by a two-thirds vote, yeas 99, nays none; and passed the Senate by a two-thirds vote, yeas 21, nays none.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Saturday, the third day of April, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

H. B. No. 162.

CHAPTER 78.

An act to amend Article 193, Chapter 1, Title 7, of the Penal Code of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas: That [Article] 193 of Chapter 1 of Title 7 of the Penal Code of the State of Texas, be amended so as to read as follows, to-wit:

Article 193. Any person who, by loud or vociferous talking or swearing, or by any other noise or in any other manner, wilfully disturbs any congregation or part of a congregation assembled for religious worship and conducting themselves in a lawful manner, or who wilfully disturbs in any manner any congregation assembled for the purpose of conducting or participating in a Sunday School, or to transact any business relating to or in the interest of religious worship or a Sunday School, and conducting themselves in a lawful manner, shall be fined in any sum not less than twenty-five nor more than one hundred dollars.

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Saturday, the third day of April, A. D. 1897, but was not signed by him nor returned to the House in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

Takes effect ninety days after adjournment.

H. B. No. 346.]

CHAPTER 79.

An Act to transfer Red River and Fayette Counties from the District School System to the Community School System, and to authorize and empower the said counties to organize and conduct all of their public free schools under the community system, as provided by the laws now in force.

Section 1. Be it enacted by the Legislature of the State of Texas: That Red River and Fayette Counties, be, and are hereby transferred from the District School system to the Community School system, and are hereby authorized and empowered to organize and conduct all their public free schools under the community school system, as provided by the laws now in force.

Sec. 2. Whereas, under the community system the assessors will have to take the scholastic census; and, whereas, said assessors are now at work, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and this act shall take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act passed the House by a two-thirds vote, yeas 88, nays none; and passed the Senate by a two-thirds vote, yeas 22, nays 1.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Saturday, the third day of April, A. D. 1897, but was not signed by him nor returned to the House in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

H. B. No. 473.]

CHAPTER 80.

An Act to restore to and confer upon the county court of Leon county the civil and criminal jurisdiction heretofore belonging to said county under the constitution and general statutes of the State, and to conform the jurisdiction of the district court of said county to such change.

Section 1. Be it enacted by the Legislature of the State of Texas: That the county court of Leon county shall hereafter have exclusive original jurisdiction in civil cases where matters in controversy shall exceed in value two hundred dollars, and not exceed five hundred dollars, exclusive of interest, and shall have concurrent jurisdiction with the district court of said county when the matter in controversy shall exceed five hundred dollars and not exceed one thousand dollars, exclusive of interest.

Sec. 2. Said county court shall have appellate jurisdiction in civil cases over which justice courts have original jurisdiction when the judgment of the court appealed from or the amount in controversy shall exceed twenty dollars, exclusive of cost, and said county court shall have power to hear and determine cases brought up from the justice court by

certiorari under the provisions of the rules of the Revised Civil Statutes thereto.

Sec. 3. The county judge of said county shall have authority either in term time or in vacation to grant writs of mandamus, injunction, sequestration, garnishment, attachment, certiorari, supersedeas, and all other writs necessary to the enforcement of the jurisdiction of the said court, and shall also have power to issue writs of habeas corpus in all cases in which the Constitution has not exclusively conferred the power on the district court or the judge thereof.

Sec. 4. Said county court shall have jurisdiction in the forfeiture and judgment on all bonds and recognizances taken in criminal cases, of which criminal cases said court has jurisdiction.

Sec. 5. Said county court shall have exclusive original jurisdiction of all misdemeanors, except misdemeanors involving official misconduct, and except cases in which the highest penalty of fine that may be imposed under the law may not exceed two hundred dollars, and the said court shall also have appellate jurisdiction in criminal cases of which justices of the peace and other inferior tribunals of said county have original jurisdiction.

Sec. 6. The district court of Leon county shall no longer have jurisdiction in cases in which the county court of said county by the provisions of this act has exclusive original or appellate jurisdiction; and it shall be the duty of the clerk of the district court of Leon county within thirty days from the date this act takes effect to make a full and complete transcript of all orders on his docket in cases now pending before said district court of which cases by the terms of this act exclusive jurisdiction is given to the county court, and to deliver said transcript, together with the original papers and certified bill of costs, to the clerk of said county court, and said county clerk shall enter said case or cases on his docket for trial by said county court.

Sec. 7. The county court of said county shall hereafter hold its regular terms of civil or criminal business as provided by the Constitution and general laws of the State, and process heretofore issued from the district court of said county in cases to be transferred under this act to the county court, shall be returnable to the first term of the county court, and all civil cases transferred shall be entered as appearance cases upon the docket of said county court.

Sec. 8. The county court of said county of Leon shall have, as now, the general jurisdiction of probate courts, for the probate of wills, appointment of guardians of minors, idiots, and lunatics, persons non compos mentis, and common drunkards, and for issuance of letters testamentary, and of administrators [administration], settlements of accounts of administrators and guardians, and the settlement and distribution of decedent's estates, and the apprenticeship of minors, and all other necessary powers conferred by law on courts of probate.

Sec. 9. All laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

Sec. 10. Owing to the crowded condition of the calendar, and the improbability of reaching the bill before the adjournment of the Legislature, creates an emergency and imperative public necessity that the constitutional rule requiring bills to be read on three several days in

each house be suspended, and that the bill be put on its third reading and final passage, and that it take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act passed the House (vote not given); and passed the Senate by a two-thirds vote, yeas 21, nays none.

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Saturday, the third day of April, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Mad-den, Secretary of State.]

H. B. No. 96.]

CHAPTER 81.

An Act to provide the mode of furnishing certain supplies to the asylums and to repeal Chapter 3, Title IX., of the Revised Civil Statutes of the State of Texas, adopted April 29th, 1895.

Section 1. Be it enacted by the Legislature of the State of Texas: That the superintendents of the several asylums, shall, on the first day of May of each year, and quarterly thereafter, advertise for sealed proposals for furnishing to the superintendents of their respective asylums, certain supplies as hereinafter named, for two weeks, in such daily newspapers, not exceeding three in number, in Texas, as they may select for that purpose; provided, if a daily newspaper be published at or near the town or city where either of said asylums are situated, one paper shall be selected from said town or city; provided, said paper charges the same price for advertising said bids as are charged by other papers selected prior to the day of opening said bids. Such advertisements shall state the articles for which said bids shall be received; they shall also state that preference shall be given to articles manufactured within the State of Texas, and when any brands of goods are specified, it is understood that any article of equal good quality, made within this State, shall be entitled to the preference, prices being equal, and bids shall be made separately as hereinafter named.

Sec. 2. Each bid shall be secured with such bond as the superintendents of the respective asylums may require, with two or more good and sufficient sureties, payable to the State, conditioned that the party to whom any contract may be awarded shall faithfully carry out the terms of the contract, and shall be liable to the State for any default of the same.

Sec. 3. On the day for opening said bids, the board of trustees of the respective asylums, or such of them as may be present, shall open said bids, and shall award to the lowest responsible bidder, the contract or contracts for which he may have bid; provided, that the board of trustees may reject any and all bids if in their judgment the interest of the State demands it.

Sec. 4. All bids shall be made for the term of three months, beginning June first of each year, and quarterly thereafter.

Sec. 5. All supplies shall be furnished in accordance with contract, beginning June first and quarterly thereafter; and it shall be the duty of the superintendents of the several asylums, on the first day of May, August, November, and February of each year, to make out detailed estimates of such supplies as they will require for the ensuing three months, beginning on the first day of the following month, and to submit the same in duplicate to the board of trustees of their respective asylums.

It is hereby made the duty of said board to immediately examine said estimates, and to approve the same, or any part thereof, as they may think necessary, and to give preference to articles manufactured or produced within the State of Texas, whenever such article can be purchased with advantage to the State.

Sec. 6. Bids shall be made for the articles hereinafter named, separately, to-wit: Bids for fresh beef; bids for bacon and lard; bids for flour; bids for rice, peas, beans, grits, and hominy; bids for soap, coarse and fine salt, vinegar, starch, soda, pepper and baking powders; bids for coffee and tea; bids for white and brown sugar; bids for molasses; bids for mackerel, prunes and dried apples, kraut, brooms, candles and oil, canned goods, alcoholic stimulants and tobacco; bids for dry goods, hats, hose, shoes and undershirts; bids for coal and wood; provided, that the party to whom may be awarded the contract for wood may deliver the amount required for a year, under such regulations as the board of trustees may direct.

Sec. 7. The superintendents of the several asylums shall give an itemized receipt for all the articles delivered by the contractors of the same, and when approved by the board of trustees the Comptroller shall draw his warrant upon the Treasurer for the amount, which amount shall be charged to the appropriate appropriations for the asylums furnished.

Sec. 8. The superintendents of the several asylums shall furnish to the board of trustees of their respective asylums a copy of the estimates that they may require for the ensuing three months, which shall be carefully preserved by said board for the inspection of the public. Said estimates shall be itemized, stating the quantity and quality of articles needed.

Sec. 9. The superintendents of the several asylums, in advertising for bids, shall specify the quality of articles required. If the superintendents of said asylums, or any of them, shall find that a sufficient quantity of any articles not enumerated in section 6, shall be needed to justify its purchase by contract, it shall be their duty to add said item or items to any bid, as required in said section, as they may deem best.

Sec. 10. That all laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

Sec. 11. The fact that the Comptroller of Public Accounts should be relieved of any and all connection with the advertising for supplies for the several asylums and the awarding of contracts therefor, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and said rule is so suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act passed the House by a two-thirds vote, yeas 89, nays 5; and passed the Senate by a two-thirds vote, yeas 21, nays 2.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Saturday, the third day of April, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

H. B. No. 563.]

CHAPTER 82.

An Act to amend Section 6, of Chapter 132, of the acts of the 24th Legislature of the State of Texas, passed at the regular session thereof, and entitled "An act to create a more efficient road system for Dallas, Lamar and Medina counties, Texas, and making county commissioners of said counties ex-officio road commissioners, and prescribing their duties as such, and providing for their compensation as road commissioners, and defining the duties and powers of such county commissioners, and providing for the appointment of road overseers, and defining their duties, and for the working of county convicts upon the public roads of said counties, and providing for officers' fees, and to provide for the summoning of teams for roads, and allowance of time of service for same on roads, and fixing a penalty for violation of this act, and to repeal all laws in conflict with this act.

Section 1. Be it enacted by the Legislature of the State of Texas: That Section 6 of Chapter 132 of the acts of the 24th legislature of the State of Texas, passed at the regular session thereof, be amended so as to hereafter read as follows:

Section 6. Any citizen of Dallas, Lamar, or Medina county, who is subject to road duty, who shall, on or before the first day of November of any year, pay to the county treasurer of his county the sum of three dollars, shall be exempt from road duty for the year beginning on the first day of January thereafter. The treasurer shall receive and receipt for all money so paid him, and place the same to the credit of the road and bridge fund. The treasurer shall on the third day of January, or as soon thereafter as practicable, furnish the commissioners' court with a list of all parties who have paid said sum as is provided in this section.

Sec. 2. All laws and parts of laws in conflict with the provisions of this act are hereby repealed.

Sec. 3. The near approach of the close of this session of the legislature and the crowded condition of the calendar creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act originated in the House, and passed the same (vote not given); and passed the Senate by a two-thirds vote, yeas 25, nays none.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Saturday, the third day of April, A. D. 1897, but

was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

H. B. No. 612.]

CHAPTER 83.

An Act to validate and confirm an ordinance passed by the city council of the city of Laredo, ceding to the United States of America certain streets intersecting land to be purchased by the United States of America for the purpose of providing a new site for the military post or reservation called Fort McIntosh, for the erection of fortifications and for such other uses as the government of the United States may desire.

Section 1. Be it enacted by the Legislature of the State of Texas: That, whereas, the City Council of the City of Laredo, on the 5th day of March, 1897, passed an ordinance ceding to the United States of America any and all streets and avenues, alleys, or other public highways which intersect or separate any lots, blocks, or parcels of land, within the corporate limits of the City of Laredo, which the United States of America may desire to purchase for the purpose of providing a new site for the military post or reservation called Fort McIntosh, and for erecting fortifications and other improvements for the national defense, and other public uses; and, whereas, it is doubtful if the said City Council of the said City of Laredo was vested with power under its charter to make such concession of said portions of streets, avenues, alleys, and other public highways; now, therefore, be it enacted that said act of the City Council of the City of Laredo in making such concession, be and the same is hereby in all things ratified and confirmed, and the United States of America is hereby vested with all the rights, privileges, powers, and title, conferred, or attempted to be conferred, by said ordinance of the City Council of the City of Laredo.

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Saturday, the third day of April, A. D. 1897, but was not signed by him nor returned to the House in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

Takes effect 90 days after adjournment.

H. B. No. 677.]

CHAPTER 84.

An Act to amend sections 23 and 24 of House Bill No. 351, entitled "An act to provide for the construction and maintenance of drains, ditches, and water courses, and for the improvement and enlargement of natural drainage of the several counties within the State of Texas, and to repeal all laws in conflict with this act," passed at the present session.

Section 1. Be it enacted by the Legislature of the State of Texas: That Sections 23 and 24 of House Bill No. 351, entitled "An act to provide for the construction and maintenance of drains, ditches, and water courses, and for the improvement and enlargement of natural drainage of the several counties within the State of Texas, and to repeal all laws in conflict with this act," passed at the present session, be and the same are hereby amended so as to read hereafter as follows:

Section 23. Corporations may be formed and chartered under the provisions of this act, and under the general incorporation laws of the State of Texas, for the purpose of constructing, maintaining, and operating canals, drains, and ditches outside of the corporate limits of cities and towns in any county in the State of Texas, and such corporations shall have full power and authority to make contracts for permanent drainage of any tract of land and the charges therefor, said charges subject to the control of the Legislature, and the rights therein shall be secured by a lien herein expressly given upon the lands benefited by said drain or canal other than homesteads.

All drains and canals so constructed by such corporations shall be reported to the Commissioners' Court of the county wherein constructed, and approved by the same.

Section 24. Any corporation so organized under the provisions of the general laws of the State of Texas, or the provisions of this act, for the purpose of drainage, shall have power to acquire lands for the purpose of its business, or in payment of stock or drainage rights, and to hold and dispose of such lands and all other property, and to borrow money for the construction, maintenance, and operation of its ditches and canals and laterals, and may issue bonds and mortgage its corporate property and franchises to secure the payment of any debts contracted for the same; provided, that lands acquired by said corporations, except such as are used for the construction, maintenance, and operation of said canals, drains, ditches, and laterals, shall be alienated within fifteen years from the date of acquiring the same, or be subject to judicial forfeiture.

Sec. 2. Whereas, Sections 23 and 24 of House Bill Number 351, passed [at] the present session, are defective, therefore an emergency exists, and an imperative public necessity, that such defects be cured, and that the constitutional rule requiring all bills to be read on three several days be suspended, and that this act take effect from and after its passage, and it is so enacted.

Approved, April 15, 1897.

[Note.—The foregoing act passed the House by a two-thirds vote, yeas 99, nays none; and passed the Senate by a two-thirds vote, yeas 21, nays none.]

S. B. No. 223.]

CHAPTER 85.

An Act to restore and confer upon the county courts of Menard and Atascosa counties the civil and criminal jurisdiction heretofore belonging to said courts under the constitution and general laws of the State, and to conform the jurisdiction of the district courts of said counties to such changes, and to repeal all laws in conflict with this act.

Section 1. Be it enacted by the Legislature of the State of Texas: That the county courts of Menard and Atascosa counties shall hereafter have exclusive original jurisdiction in civil cases where the matter in controversy shall exceed in value two hundred dollars, and shall not exceed five hundred dollars, exclusive of interest, and shall have concurrent jurisdiction with the district courts of said counties where the matter in controversy shall exceed five hundred dollars and not exceed one thousand dollars.

Sec. 2. Said county courts shall have appellate jurisdiction in civil cases over which justices' courts have original jurisdiction where the judgment of the court appealed from, or the amount in controversy, shall exceed twenty dollars, and said county courts shall have power to hear and determine cases brought up from the justices courts by certiorari, under the provisions of the title of the Revised Statutes relating thereto.

Sec. 3. The county judges in said counties shall have authority, either in term time or in vacation, to grant writs of mandamus, injunction, sequestration, garnishment, attachment, certiorari, supersedeas, and all other writs necessary to the enforcement of the jurisdiction of said courts, and shall also have power to issue writs of habeas corpus in all cases in which the Constitution has not exclusively conferred the power on the district courts or judges thereof.

Sec. 4. Said county courts shall have jurisdiction in the forfeiture and judgment of all bonds and recognizances taken in criminal cases, of which criminal cases said courts have original or appellant [appellate] jurisdiction.

Sec. 5. Said county courts shall have exclusive original jurisdiction of all misdemeanors except misdemeanors involving official misconduct, and except cases in which the highest penalty of fine that may be imposed under the law may not exceed two hundred dollars; and shall have original jurisdiction of all misdemeanors except those involving official misconduct, and concurrent jurisdiction with that of justices of the peace in criminal cases, and appellant [appellate] jurisdiction in criminal cases of which justices of the peace and other inferior tribunals of said counties have original jurisdiction.

Sec. 6. The district courts of said counties of Menard and Atascosa shall no longer have jurisdiction of misdemeanors except misdemeanors involving official misconduct, and shall no longer have jurisdiction of cases which the county courts of said counties by the provisions of this act, have original or appellate jurisdiction; and it shall be the duty of the district clerks of said counties, within thirty days after this act shall take effect, to make full and complete transcripts of all orders on the criminal and civil dockets in cases then pending before the district courts of said counties, of which cases, by the provisions of this act,

original and appellate jurisdiction is given to the said county courts, and to deliver said transcripts, together with the original papers and a certified bill of costs in each case, to the county clerks of said counties, and said county clerks shall take charge of said transcripts and papers, file the same, and enter said cases on their respective dockets for trial by said courts.

Sec. 7. The said county courts shall also have the power to hear and determine all motions against sheriffs and other officers of the courts for failure to pay over moneys collected under the process of said courts, or other defalcation of duty in connection with such process, and shall have power to punish by fine not exceeding one hundred dollars, and by imprisonment not exceeding three days, any person guilty of contempt of said courts, and all other powers and jurisdiction conferred on county courts by the Constitution and general laws of this State.

Sec. 8. All laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

Sec. 9. The near approach of the close of the session and the importance of transferring without delay the jurisdiction to the county courts, creates an emergency and imperative necessity that the law requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act passed the Senate by a two-thirds vote, yeas 25, nays none; and passed the House (vote not given).]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Tuesday, the sixth day of April, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

H. B. No. 614.]

CHAPTER 86.

An Act to regulate the terms and fix the times for holding the District Courts in the Eighth Judicial District of Texas, and to repeal all laws and parts of laws in conflict with this act.

Section 1. Be it enacted by the Legislature of the State of Texas: That the terms and times for holding the district courts in the eighth judicial district of Texas shall be as follows:

In the county of Delta on the first Monday in January of each year, and may continue in session three weeks; and on the first Monday in June of each year, and may continue in session until the business is disposed of.

In the county of Hopkins on the fourth Monday in January and August of each year, and may continue in session six weeks.

In the county of Hunt on the sixth Monday after the fourth Monday in January of each year, and may continue in session nine weeks; and on the sixth Monday after the fourth Monday in August of each year, and may continue in session eight weeks.

In the county of Rains on the fifteenth Monday after the fourth Monday in January of each year, and may continue in session two weeks; and on the fourteenth Monday after the fourth Monday in August of each year, and may continue in session until the business is disposed of.

Sec. 2. That all process issued or served before this act takes effect, returnable to the district courts of said judicial district, shall be returnable to the terms of said courts as fixed by the terms of this act; and said process is hereby legalized and validated, and all grand and petit jurors selected and drawn under existing laws in any of the counties of said judicial district shall be considered lawfully drawn and selected for the next term of the district court of the respective counties held after this act takes effect; and all recognizances and appearance bonds taken in and for said courts shall bind the parties therein obligated to appear at the next term of said courts held under this act.

Sec. 3. That all laws and parts of laws in conflict with this act be and the same are hereby repealed.

Sec. 4. The great amount of business before this legislature rendering it improbable that this bill can be read on three several days, and the existing inconvenience of attending to the business of the courts in said judicial district as now arranged, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and said rule is hereby suspended.

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Wednesday, the seventh day of April, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

Takes effect 90 days after adjournment.

H. B. No. 168.]

CHAPTER 87.

An Act to punish persons for wilfully turning out, or permitting to run at large, within a county or subdivision of a county in which the stock law has been adopted, any stock prohibited by law from running at large.

Section 1. Be it enacted by the Legislature of the State of Texas: That any person who shall wilfully turn out or cause to be turned out, on land not his own or under his control, or who shall wilfully fail or refuse to keep up any stock, prohibited by law from running at large in any county or subdivision of any county in this State, in which the stock law has been adopted; or who shall wilfully allow such stock to trespass upon the land of another, in such county, or subdivision thereof; or who shall wilfully permit to run at large any stock of his own, or of which he is the agent, or of which he has the control, and not permitted to run at large in any county or subdivision of any county in this State, in which the stock law has been adopted, shall be deemed guilty of a

misdemeanor, and upon conviction shall be punished by fine in any sum not less than five dollars and not more than fifty dollars.

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Wednesday, the seventh day of April, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

Takes effect 90 days after adjournment.

H. B. No. 176.]

CHAPTER 88.

An Act to quiet title to lands located and surveyed by virtue of land certificates granted under the act of the Legislature of the State of Texas entitled "An act granting to persons who have been permanently disabled by reason of wounds received while in the service of this State or of the Confederate States, a land certificate for twelve hundred and eighty acres of land," approved April 9th, 1881, and to validate patents issued on such locations and surveys.

Section 1. Be it enacted by the Legislature of the State of Texas: That all patents issued by the State upon locations or surveys of land made by virtue of any certificate issued under the provisions of an act of the Legislature of the State of Texas entitled "An act granting to persons who have been permanently disabled by reason of wounds received while in the service of this State or of the Confederate States, a land certificate for twelve hundred and eighty acres of land," approved April 9th, 1881, be and are hereby validated, and the fact that the school and individual sections, or surveys made by virtue of any such certificate, may not have been made contiguous or adjacent to each other shall not be held to invalidate the patent issued on such survey, nor to invalidate the right of the public free school fund to the land located or surveyed for the benefit thereof by virtue of any such certificate.

Sec. 2. That all locations and surveys of land made by virtue of land certificates under said act of April 9th, 1881, entitled "An act granting to persons who have been permanently disabled by reason of wounds received while in the service of this State or of the Confederate States, a land certificate for twelve hundred and eighty acres of land," for which surveys the field notes and certificates have been returned to the Land Office within the time required by law and located upon lands subject to location by certificates, are hereby validated, and where patents have been withheld for no other reason than that the school land required by said act to be located is not located adjacent to the individual land, the Commissioner of the General Land Office is hereby authorized and required to issue patents to the persons to whom said certificates were issued, or to his or her assignee; provided, that said Commissioner shall not be authorized or required to issue to any person to whom such certificate may have been issued, or to his or her assignee, a patent for any greater amount of land than may have been surveyed by virtue of such certificate for the benefit of the public free school fund.

Sec. 3. This act shall not be construed to affect or validate any of

said patents or surveys mentioned in the two preceding sections that would be invalid for other reasons than that the school and individual sections were not located contiguous to each other; provided, that this act shall not be construed to validate any of the above lands obtained by fraud.

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Wednesday, the seventh day of April, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

Takes effect 90 days after adjournment.

H. B. No. 571.]

CHAPTER 89.

An Act to prescribe the time of holding the terms of the district court in the 28th, 36th and 49th judicial districts of the State of Texas, and to repeal all laws or parts of laws in conflict with this act.

Section 1. Be it enacted by the Legislature of the State of Texas: That the terms of the district court of the 28th judicial district, comprising the counties of Cameron, Hidalgo, Starr, and Nueces, shall, after the first day of August, 1897, be held as follows:

In Cameron county on the first Monday in February and September, and may continue in session four weeks.

In the county of Hidalgo on the fourth Monday after the first Monday in February and September, and may continue in session two weeks.

In the county of Starr on the sixth Monday after the first Monday in February and September, and may continue in session three weeks.

In the county of Nueces on the ninth Monday after the first Monday in February and September, and may continue in session eight weeks.

Sec. 2. That the terms of the district court of the 36th judicial district, comprising the counties of Aransas, San Patricio, Live Oak, McMullen, Atascosa, Frio, La Salle, Zavala, and Dimmit, shall, after the first day of August, 1897, be held as follows:

In the county of Aransas on the first Monday in January and August, and may continue in session two weeks.

In the county of San Patricio on the third Monday in January and August, and may continue in session two weeks.

In the county of Live Oak on the second Monday in March and September, and may continue in session two weeks.

In the county of McMullen on the third Monday after the first Monday in March and September, and may continue in session one week.

In the county of Atascosa on the fourth Monday after the first Monday in March and September, and may continue in session three weeks.

In the county of Frio on the seventh Monday after the first Monday in March and September, and may continue in session two weeks.

In the county of Zavala on the ninth Monday after the first Monday in March and September, and continue in session one week.

In the county of Dimmit on the tenth Monday after the first Monday in March and September, and continue in session one week.

In the county of La Salle on the eleventh Monday after the first Monday in March and September, and continue in session two weeks.

Sec. 3. That the terms of the district court of the 49th judicial district, comprising the counties of Webb, Encinal, Zapata, and Duval, shall, after August 1st. 1897, be held as follows:

In Duval county on the first Monday in January and June, and may continue in session three weeks.

In the county of Zapata on the tenth Monday after the third Monday in January and on the tenth Monday after the first Monday in October, and may continue in session two weeks.

In the county of Webb on the fourth Monday in January and on the first Monday in October, and may continue in session nine weeks, and on the fourth Monday in June, and may continue in session five weeks.

The unorganized county of Encinal is hereby attached to Webb county for judicial purposes.

Sec. 4. All laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

The fact that the present conflict in the term times of said district courts works serious inconvenience and great hardship upon the litigants, officers, and witnesses, and the crowded condition of the calendar, creates an imperative public necessity and an emergency that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after the first day of August, 1897, and it is so enacted.

[Note.—The foregoing act passed the House (vote not given); and passed the Senate by a two-thirds vote. yeas 24, nays none.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Wednesday, the seventh day of April, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

S. B. No. 13.]

CHAPTER 90.

An Act to abolish the unorganized counties of Buchel and Foley, and incorporate their territory in the county of Brewster; to provide for the payment of certain bonds held by the State against said unorganized counties out of funds now on hand to their credit, and for the transfer and payment of the balance of said funds to the proper officers of said Brewster county.

Section 1. Be it enacted by the Legislature of the State of Texas: That the unorganized counties of Buchel and Foley be and the same are hereby abolished.

Sec. 2. That for the purpose of incorporating the territory comprising said unorganized counties in the county of Brewster, the boundary lines of Brewster county be, and they are hereby established as follows:

Beginning at the southeast corner of survey No. 36, certificate No.

3376, G. C. & S. F. Railway Company; thence south to the Rio Grande river: thence down the Rio Grande river, following its meanders, to the Pecos county line; thence in a northwesterly course along the southwestern line of Pecos county to a point due north of the Leoncita Springs to the present corner of Brewster and Jeff Davis counties; thence in a southwesterly direction along the present line of Jeff Davis and Brewster counties to the place of beginning.

Sec. 3. That immediately upon the taking effect of this act a sufficient amount of the funds now in the State treasury to the credit of said unorganized counties to fully pay off and discharge the Presidio county court house and jail bonds now held by the State and apportioned to said unorganized counties by the Comptroller under Chapter 36, Act of 1891, shall be applied to the payment of said bonds and interest on same, and that the balance of said funds, if any, shall be paid over to the treasurer of Brewster county.

Sec. 4. That all taxes due upon or assessed against the property of non-residents in said unorganized counties of Buchel and Foley, and which shall remain unpaid at the time this act takes effect, shall be payable to and shall be collected by the tax collector of Brewster county, in the same manner as other taxes are collected in Brewster county, and a copy of the non-resident tax rolls of said unorganized counties, certified to by the comptroller of public accounts, showing the amount of taxes due and remaining unpaid by such non-residents at the time this act takes effect, shall be sufficient authority for the tax collector of Brewster county to collect such taxes.

Sec. 5. That all laws and parts of laws in conflict with this act be, and the same are hereby repealed.

Sec. 6. That, whereas, the State now holds for the benefit of the public school fund a large amount of bonds against said unorganized counties, and they have sufficient funds in the State treasury to their credit to fully pay off and discharge said bonds, but there is no law authorizing the application of said funds to the payment of said bonds, there is thereby created and exists such an emergency and imperative public necessity as requires the rule that bills be read upon three several days be suspended, and that this act take effect from and after its passage, and it is so enacted.

[Note.—The foregoing act passed the Senate, and having passed the House with amendments, was referred to a free conference committee, and the report of said committee was adopted by both houses.

No vote on the bill in either house is given by number of yeas and nays, but the Chief Clerk certifies that the bill passed the House with amendments by a two-thirds vote.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Friday, the ninth day of April, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Mad-den, Secretary of State.]

H. B. No. 40.]

CHAPTER 91.

An Act to repeal Article 1277, and to amend Article 1278, of the Revised Statutes of Texas, relating to continuances.

Section 1. Be it enacted by the Legislature of the State of Texas: That Article 1277 of the Revised Statutes of the State of Texas, be and the same is hereby repealed.

Sec. 2. That Article 1278 of the Revised Statutes of the State of Texas, be amended so as to hereafter read as follows, to-wit:

Article 1278. On applying for a continuance, if the ground of such application be the want of testimony, the party applying therefor shall make affidavit that such testimony is material, showing the materiality thereof, and that he has used due diligence to procure such testimony, stating such diligence, and the cause of failure, if known; that such testimony can not be procured from any other source; and if it be for the absence of a witness, he shall state the name and residence of the witness, and what he expects to prove by him; and he shall also state that the continuance is not sought for delay only, but that justice may be done.

Provided, that on a first application for continuance, it shall not be necessary to show that the absent testimony can not be procured from any other source.

Approved, April 22, 1897.

Takes effect 90 days after adjournment.

S. B. No. 42.]

CHAPTER 92.

An Act to amend Chapter 3, Title 40, of the Revised Civil Statutes of the State of Texas, by adding thereto Article 2293a, relating to the depositions of parties.

Section 1. Be it enacted by the Legislature of the State of Texas: That Chapter 3 of Title 40 of the Revised Civil Statutes of the State of Texas be amended by adding thereto Article 2293a, as follows:

Article 2293a. Where either party to any suit is a corporation, neither party thereto shall be permitted to take ex parte depositions.

Approved, April 22, 1897.

Takes effect 90 days after adjournment.

H. B. No. 557.]

CHAPTER 93.

An Act to amend Article 22, Title 4, of the Revised Civil Statutes of Texas, 1895, so as to extend the terms of the District Court in Fort Bend, Wharton, Brazoria and Waller Counties.

Section 1. Be it enacted by the Legislature of the State of Texas: That article 22, title 4, of the Revised Statutes of the State of Texas, of 1895, be so amended as hereafter to read as follows:

Article 22. The Twenty-third Judicial District of Texas shall be composed of the counties of Brazoria, Fort Bend, Jackson, Matagorda, Waller, and Wharton, and the terms of the district court to be held therein shall be held as follows, viz:

In the county of Waller, on the second Monday in February and August of each year, and may continue in session four weeks.

In the county of Fort Bend, on the fourth Monday after the second Monday in February and August of each year, and may continue in session five weeks.

In the county of Wharton, on the tenth Monday after the second Monday in February and August of each year, and may continue in session four weeks.

In the county of Jackson, on the fourteenth Monday after the second Monday in February and August of each year, and may continue in session two weeks.

In the county of Matagorda, on the seventeenth Monday after the second Monday in February and August of each year, and may continue in session two weeks.

In the county of Brazoria, on the nineteenth Monday after the second Monday in February, and the twentieth Monday after the second Monday in August of each year, and may continue in session six weeks.

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Tuesday, the thirteenth day of April, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

Takes effect 90 days after adjournment.

H. B. No. 459.]

CHAPTER 94.

An Act to require bond investment companies doing business in the State of Texas, to deposit certain sums of money or securities with the Treasurer of the State of Texas, and providing penalties for failing to comply with the terms of this law.

Section 1. Be it enacted by the Legislature of the State of Texas: That every corporation, company, or individual, doing business in this State as a bond investment company, or company to place or sell bonds, certificates or debentures on the partial payment or installment plan, shall, and the same is hereby required to, deposit with the State treasurer, in

cash or securities approved by the State treasurer, the sum of five thousand dollars, and in addition thereto they shall be required to deposit semi-annually with the State treasurer in cash or securities to be approved by said officer, ten per cent of all the net premiums received, until the sum deposited shall amount to the sum of (\$100,000) one hundred thousand dollars.

Sec. 2. If any such company, being a domestic corporation, shall fail, for sixty days after the passage of this act, or for sixty days after the organization of such company, to make with the State treasurer the deposit required by this act, it shall be considered to have forfeited its charter, and the attorney-general shall, immediately upon receiving information thereof, bring suit in the name of the State, in the district court of Travis county, to have such charter or certificate of incorporation declared forfeited and of no effect, and said court shall declare such charter forfeited, and appoint a receiver for such company, whose duty it shall be, under the order of the court, to distribute to the shareholders the assets of the company. The court shall, out of the assets of the company, make such allowance for compensation for the receiver as shall be equitable and just.

Sec. 3. If any officer, agent, or representative of any such company or companies, whether they be foreign or domestic corporations, shall attempt to place or sell shares, or to transact any business whatsoever in the name or on behalf of such company or companies while they fail or refuse to comply with the provisions of this act, said officer, agent, or representative shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined not less than one hundred dollars, nor more than one thousand dollars, for each offense, or be imprisoned in the county jail for not less than thirty days nor more than six months, or by both such fine and imprisonment. Provided, that such company or companies that have sold bonds, certificates, or debentures prior to the taking effect of this act may and can carry out their contracts in force at said date without complying with the provisions of this act.

Sec. 4. In case of the failure of any company covered by this act, the district court of the county or city in which the principal office is located, upon the application of one or more shareholders, shall appoint a receiver for such company, whose duty it shall be to wind up its affairs, liquidate its debts, and distribute its assets, using therefor, upon the order of the court, the deposit previously made, to secure the shareholders, with the State treasurer; and the State treasurer is hereby authorized to pay out such deposit in accordance with requisitions made upon the State comptroller by said receiver, and approved by the court, upon the warrant of the State comptroller.

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Tuesday, the thirteenth day of April, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

Takes effect ninety days after adjournment.

H. B. No. 476.]

CHAPTER 95.

An Act to restore to and confer upon the county court of San Saba county the civil and criminal jurisdiction formerly belonging to said county under the Constitution and general statutes of the State, and to conform the jurisdiction of the district court of said county to said change.

Section 1. Be it enacted by the Legislature of the State of Texas: That the county court of San Saba county shall hereafter have exclusive original jurisdiction in civil and criminal cases where the matter in controversy shall exceed in value two hundred dollars, exclusive of interest, and shall have concurrent jurisdiction with the district court of said county, where the matter in controversy shall exceed five hundred dollars, and not exceed one thousand dollars.

Sec. 2. Said county court shall have appellate jurisdiction in civil and criminal cases over which justices courts have original jurisdiction, when the judgment of the court appealed from or the amount in controversy shall exceed twenty dollars; and said county court shall have power to hear and determine cases brought up from the justice court by certiorari under the provisions of the title of the Revised Civil Statutes relating thereto.

Sec. 3. The county judge of said county shall have authority, either in term time or in vacation, to grant writs of mandamus, injunction, sequestration, garnishment, attachment, certiorari, supersedeas, and all other writs necessary to the enforcement of the jurisdiction of the said court; and shall also have power to issue writs of habeas corpus in all cases in which the Constitution has not exclusively conferred the power on the district court or the judge thereof.

Sec. 4. Said county court shall have jurisdiction in the forfeiture and judgment on all bonds and recognizances taken in criminal cases, of which criminal cases said court has jurisdiction.

Sec. 5. Said county court shall have exclusive original jurisdiction of all misdemeanors involving official misconduct, and except cases in which the highest penalty or fine that may be imposed under the law may not exceed two hundred dollars; and said court shall also have appellate jurisdiction in criminal cases of which justices of the peace and other inferior tribunals of said county have original jurisdiction.

Sec. 6. The district court of San Saba county shall no longer have jurisdiction in cases in which the county court of said county, by the provisions of this act, have exclusive original or appellate jurisdiction; and it shall be the duty of the clerk of the district court of San Saba county, within thirty days from the passage of this act, to make a full and complete transcript of all orders on his docket, in cases now pending before the said district court, of which cases, by the terms of this act, exclusive jurisdiction is given to the county court, and to deliver said transcript, together with the original papers and certified bills of costs, to the clerk of said county court, and said county clerk shall enter said case or cases on his docket for trial by said county court.

Sec. 7. The county court of said county shall hereafter hold its regular terms of civil or criminal business as provided in the Constitution and general laws of the State, and process, heretofore issued from the district court of said county, in cases to be transferred under this act

to the county court, shall be returnable to the first term of the county court, and all civil cases transferred shall be entered as appearance cases upon the docket of said county court.

Sec. 8. The county court of said county of San Saba shall have, as now, the general jurisdiction of probate courts for the probate of wills, appointment of guardians of minors, idiots and lunatics, persons non compos mentis and common drunkards, and for the issuance of letters testamentary and of administration, settlement of accounts of administrators and guardians, and the settlement and distribution of decedents' estates, and the apprenticeship of minors, and all other necessary powers conferred by law on courts of probate.

Sec. 9. All laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed, in so far as they relate to San Saba county.

Sec. 10. The great necessity for this law creates an imperative public necessity and emergency requiring the constitutional rule that bills be read on three several days in each house be suspended, and the same is therefore suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act passed the House (vote not given); and passed the Senate by a two-thirds vote, yeas 21, nays none.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Tuesday, the thirteenth day of April, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

H. B. No. 654.]

CHAPTER 96.

An Act to create a more efficient road system in Gregg, Harrison and Upshur counties, and to provide for the appointment of road overseers and to define the powers and jurisdiction of the commissioners' court with regard thereto, and to utilize the labor of county convicts and defaulting poll tax payers on the public roads of said counties, and to provide for the appointment of overseers to work such convicts and defaulting poll tax payers.

Section 1. Be it enacted by the Legislature of the State of Texas: That the County Commissioners' Courts of Gregg, Harrison, and Upshur Counties, Texas, may cause all persons who may be convicted of any misdemeanor in any court in said counties for violation of State laws, and who may be committed to the jail of the county in default of the payment of the fine and the costs adjudged against such person or persons, to be worked upon the public roads of such county for such length of time as may be necessary to discharge and liquidate such fine and costs at the sum of fifty cents per day for each and every day such convict may work on such roads; provided, that no convicts shall be required to perform any work upon such roads on Sunday, but they shall be given the same credit as if they had labored on that day.

Sec. 2. The Commissioners' Court shall appoint an overseer for the

purpose of working the convicts and defaulting poll tax payers mentioned in Section one of this act, who shall hold his office for the term of two years, and such overseer shall receive such compensation for his services as may be prescribed and fixed by the Commissioners' Court, not, however, to be less than one dollar per day for the time actually served by such overseer.

Sec. 3. The overseer herein provided for may be removed from office by the court appointing him, for good cause, to be determined by such court, and the vacancy thus occasioned may be filled by said court for the unexpired term of any overseer removed for cause.

Sec. 4. Every insolvent poll tax payer of Gregg, Harrison, and Upshur Counties, who shall fail or refuse to pay his poll tax, and from whom such tax can not be otherwise collected by law, shall be permitted to pay such tax by working on the public county roads of said counties, at the rate of one dollar per day. In order to enforce the provisions of this section, the tax collector of the county shall furnish to the several road overseers of the county the names of all defaulting poll tax payers of the county on or before the first day of March of each and every year, giving the place of residence of such defaulting tax payer, together with the amount due and unpaid by him. For such services such road overseer shall be exempt from road service. It shall be the duty of road overseers herein provided for, whenever any defaulting poll tax payer shall have discharged and paid the same as herein provided, to report the same back to the tax collector, who shall credit the party on the tax roll for the amount thus paid; said overseer shall, also, report the same in his regular report to the Commissioners' Court; provided, that no fine or any penalty shall be recovered of any defaulting insolvent poll tax payers for failure to work out their poll tax indebtedness under the provisions of this act.

Sec. 5. This act shall be cumulative of all general laws of this State on the subject of roads and bridges, and the employment of county convicts, not in conflict herewith; and, when not otherwise provided herein, such general law shall apply; but in case of conflict with general laws, this act shall govern; and the courts of the State shall have and take judicial knowledge of this act in the same manner and to the same extent as they are required to know and notice the general laws of the State.

Sec. 6. The near approach of the close of the present session of the Legislature and the vast amount of important business now pending, and the fact that the public roads of Gregg, Harrison and Upshur counties are now in a deplorable condition, for the want of a more efficient road system, creates an emergency, and an imperative public necessity exists that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act passed the House (vote not given); and passed the Senate by a two-thirds vote, yeas 21, nays none.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Tuesday, the thirteenth day of April, A. D. 1897, but was not signed by him nor returned to the house in which it origin-

ated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

H. B. No. 90.]

CHAPTER 97.

An Act to regulate the practice of dentistry in the State of Texas, and to prescribe penalties for the violation of same, and to provide for the appointment of a State Board of Dental Examiners.

Section 1. Be it enacted by the Legislature of the State of Texas: That it shall be unlawful for any person to practice or attempt to practice dentistry or dental surgery in the State of Texas without first having secured a diploma from some reputable dental college, school or university department, duly authorized by the laws of this State, or some other of the United States, or some foreign country, and in which college, school or university department there are at the time of issuance of such diploma annually delivered a full course of lectures and instructions in dentistry and dental surgery; provided, that nothing in Section one (1) of this act shall apply to any person engaged in the practice of dentistry or dental surgery in the State at the time of the passage of this act except as hereinafter provided; and provided, further, that physicians and surgeons may, in the regular practice of their profession, extract teeth or make applications for the relief of pain.

Sec. 2. It shall be unlawful for any person or persons to extract teeth or perform any other operation pertaining to dentistry for pay or for the purpose of advertising, exhibiting, or selling any medicine or instrument or business of any kind or description whatever, unless such person or persons shall first have complied with the provisions of this act.

Sec. 3. A Board of Examiners consisting of six practicing dentists of acknowledged ability as such, is hereby created, who shall have authority to issue certificates to persons in the practice of dentistry or dental surgery in the State of Texas, at the time of the passage of his act; and also to decide upon the validity of such diplomas as may be subsequently presented for registration, as hereinafter provided, and issue certificates to all applicants who may hereafter apply to said board and pass a satisfactory examination.

Sec. 4. The members of said board shall be appointed by the Governor and shall serve for a term of two years, excepting that the members of the board first appointed shall be made as follows: three for one year and three for two years, respectively, and until their successors are duly appointed. In case of vacancy occurring in said board by resignation, removal from the State, or by death, such vacancy may be filled for its unexpired term by the Governor.

Sec. 4a. Before entering upon the duties of this office each and every member of this board shall make oath before any officer authorized to administer an obligation, who shall be empowered to use a seal of office, that he will faithfully discharge the duties incumbent upon him to the best of his ability. The same shall be filed for record with the county clerk in the county in which affiant resides. The county clerk shall receive for recording the same fifty cents.

Sec. 5. Said board shall keep a record, in which shall be registered the names and residences or places of business of all persons authorized under this act to practice dentistry or dental surgery in this State. It shall elect one of its members president and one secretary thereof, and it shall meet at least once in each year, and as much oftener and at such times and places as it may deem necessary. A majority of the members of said board shall constitute a quorum, and the proceedings thereof shall be open to the public.

Sec. 6. Every person engaged in the practice of dentistry or dental surgery within this State at the time of the passage of this act, shall, within six months thereafter, cause his or her name, residence, and place of business to be registered with said board of examiners, upon which said board shall issue to such person a certificate duly signed by a majority of the members of said board, and which certificate shall entitle the person to whom it is issued to all the rights and privileges set forth in Section one (1) of this act.

Sec. 7. Any person desiring to commence the practice of dentistry or dental surgery within this State after the passage of this act, shall before commencing such practice, file for record in a book kept for such cases, with the said board of examiners, his or her diploma, or duly authenticated copy thereof, the validity of which the said board have the power to determine. If accepted, said board shall issue to the person holding such diploma a certificate duly signed by all or a majority of the members of said board, and which certificate shall entitle the person to whom it is issued to all the rights and privileges set forth in section one (1) of this act; provided, that any person, whether holding a diploma as aforesaid or not, shall have the privilege of making application to said board, and upon undergoing a satisfactory examination shall be entitled to a certificate in like manner as a person holding a diploma, and upon the same terms.

Sec. 8. Any member of said board may, when the board is not in session, grant a license to practice dentistry to a person whom such member finds on examination to be qualified, on the payment of the sum of two dollars by such person. A license so granted shall be valid until the next meeting of the board, but no longer. Each member shall make a report of licenses so granted by him, at the meeting of the board following the granting of the license. A member shall not grant a license under the provisions of this section to one who has been rejected by the board as disqualified.

Sec. 9. Every person to whom license is issued by said board of examiners, shall, within thirty days from the date thereof, present the same to the clerk of the county in which he or she resides or expects to practice, who shall officially record said license in a book in his office provided for that purpose, and shall be entitled to a fee of fifty cents for his services.

Sec. 10. To provide for the proper and effective enforcement of this act, said board of examiners shall be entitled to the following fees, to-wit:

For each certificate to persons engaged in the practice in the State at the time of the passage of this act the sum of fifty cents; for each certificate issued to persons not engaged in the practice of dentistry in the State at the time of the passage of this act, the sum of ten dollars.

Sec. 11. The members of said examining board shall receive the

compensation of five dollars per day for each day actually engaged in the duties of their office, which together with all other legitimate expenses incurred in the performance of such duties, shall be paid from the fees received by the board under the provisions of this act; and no part of the expenses of said board shall at any time be paid out of the State Treasury. All moneys in excess of said per diem allowance and other expenses shall be held by the secretary of the said board, as a special fund for meeting the expenses of said board, he giving such bond as the board may from time to time direct, and said board shall make an annual report of its proceedings to the Governor by the fifteenth day of December of each year, together with an account of all moneys received and disbursed by them in the pursuance of this act.

Sec. 12. Any person who shall violate this act by practicing or attempting to practice dentistry or dental surgery within the State without first complying with the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum of not less than twenty-five nor more than three hundred dollars for each and every offense, each day in the practice constituting a separate offense. All fines collected from prosecutions under this law shall be appropriated to the common school fund in the county where collected.

Sec. 13. Any person or persons who shall violate this act by extracting teeth or performing any other operation pertaining to dentistry, for the purpose of advertising, exhibiting, or selling any medicine, instrument, or business of any kind or description, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not less than twenty-five nor more than three hundred dollars for each and every offense.

Sec. 14. That all laws and parts of laws in conflict with this act be and the same are hereby repealed.

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Tuesday, the thirteenth day of April, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

Takes effect 90 days after adjournment.

H. B. No. 314.]

CHAPTER 98.

An Act to amend Articles 529c, 529d, 529g, 529h, 529m, and 529n, of Chapter 5, Title 13, of the Revised Penal Code of the State of Texas, of 1895, and by adding Articles 529s and 529t to said Chapter 5, Title 13, of said Penal Code of the State of Texas, relating to offenses for the protection of fish, birds and game, and to repeal all laws in conflict herewith.

Section 1. Be it enacted by the Legislature of the State of Texas: That Articles 529c, 529d, 529g, 529h, 529m, and 529n, of Chapter 5, of Title 13, of the Penal Code of the State of Texas, of 1895, be amended so as to hereafter read as hereinafter set forth, and that Articles 529s and 529t

be added to said Chapter 5, of Title 13, of the Penal Code of the State of Texas, of 1895, as hereinafter set forth:

Article 529c. The catching of fish, green turtle, or terrapin, in any of the public waters in the State by poison, lime, dynamite, nitro-glycerine, giant powder, or other explosives, is hereby prohibited; and any person offending against this article shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than twenty-five dollars nor more than two hundred and fifty dollars, and each day shall constitute a separate offense.

Article 529d. Any person who shall engage in the business of fishing or catching green turtle or terrapin without first having procured a license therefor, as prescribed in Article 2518k of the Revised Civil Statutes, shall be guilty of a misdemeanor, and upon conviction shall be fined not less than ten dollars nor more than two hundred and fifty dollars, and any person who shall sell fish, green turtle, or terrapin, caught by drag seine or set net, shall be considered as engaged in the business above named.

Article 529g. It shall be unlawful for any person during the breeding season, consisting of the months intervening between April the first and September the first, to catch any fish, green turtle, or terrapin, by drag seine or set net, in these waters, which are hereby declared to be breeding grounds for fish, green turtle, and terrapin, to-wit:

1st. All that portion of water in Cameron and Nueces counties known and marked on the United States Coast Survey Chart as Baffins Bay and Aqua Dulce.

2nd. All that portion of water in Nueces County lying north of the San Antonio and Aransas Pass Bridge and marked on the United States Coast Survey Chart as Nueces Bay.

3rd. All that portion of water in Aransas County known and marked on the United States Coast Survey Chart as Copana Bay, Puerto Bay, Mission Bay, and St. Charles Bay.

4th. All that portion of Lavaca Bay in Calhoun County North and West of the line starting from the extreme East point of Gallinipper Point and running in a northerly direction along Gallinipper Bar to the extreme South point of Point Comfort, or sometimes called Mitchell's Point.

5th. All that portion of water in Refugio and Calhoun Counties marked on the United States Coast Survey Chart as Hynes' Bay.

6th. All that portion of water in Calhoun County north of a line starting from the extreme point of Marsh's Point and running due east to the east bank of San Antonio Bay, and marked on the United States Coast Survey Charts as Mission Bay and San Antonio Bay.

7th. All that portion of water in Calhoun County marked on the United States Coast Survey Chart as Carankaway Bay.

8th. All that portion of water in Matagorda County North of a line starting from the extreme point of Wells Point and running East to Palacios Bayou, and marked on the United States Coast Survey Chart as Turtle Bay and Trespalacios Bay.

9th. All that portion of water in Brazoria County marked on the United States Coast Survey Chart as Bastrop Bay and Oyster Bay.

10th. All that portion of water in Galveston and Harris Counties North of a line starting from the extreme Southern point of Red Bluff

on the West bank of Galveston Bay and running in an easterly direction to the first beacon south of Morgan's Point, thence in a northeasterly direction to the extreme point of Mesquite Point.

11th. All that portion of water in Chambers County marked on the United States Coast Survey as Turtle Bay.

12th. All that portion of water in Galveston and Harris Counties known as Clear Creek and Clear Lake, as far up as the G. H. & H. R. R. Bridge.

13th. All that portion of water in Chambers County starting from the mouth of the Trinity River, with all adjacent channels, bayous, and lakes, up said river to include Lake Charlotte.

14th. All that portion of water in what is known as Ingleside Bay or Ingleside Cove, North of a line starting from the extreme western point of Hatch's Peninsula, in a northerly direction to Donnel's Point on the mainland.

15th. All that portion of water lying west of a line drawn from the northwest point of Mustang Island at the old Revetment, placed there by the United States Government, to the first buoy south of the Lighthouse, and continuing in same direction to the East shore of Harbor Island; said body of water lies between Mustang and Harbor Islands, and is commonly known as the "Cove."

16th. All that portion of water known as Redfish Bay in Nueces County and Aransas County, and being all that body of water lying west of and between Shell Banks, Bird Island, Hog Island, Blackberry Island, and Ransom's Island, on the East, and the mainland, on the West.

17th. All that body of water on the west shore of St. Joe Island, beginning at a point on St. Joe Island called Caesar's Point, thence in a southerly direction along the middle ground to a stake set 600 feet due West of Allyn's Wharf, thence East to the west shore of said Island, thence northerly with the meanders of said west shore to the place of beginning.

18th. All that body of water known as Galveston Bay.

Any person offending against this article shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than twenty-five dollars nor more than two hundred and fifty dollars, and each day shall constitute a separate offense; and in any and all prosecutions under this article the identification of the boat from which such violation occurs shall be *prima facie* evidence against the person or persons in charge or on such boat.

Article 529h. Any person fishing with a drag seine or set net, for sale or market, shall return all fish, green turtle, or terrapin, of the sizes and weights specified in Articles 528e, and 529f, of the Penal Code, to the water while they are yet alive, except Sharks, Gars, Rays, and Sawfish; and the sizes of the meshes of fish seines used shall not be less than one and one-quarter inches square, not including the bag; and any person offending against this article shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than ten dollars nor more than two hundred and fifty dollars.

Article 529m. When oysters are gathered as prescribed in Article 529s of this act, from the public beds or reefs, except for planting, they must be culled, and the young oysters and dead shells must be returned to the original reef or bed while the young oysters are yet alive, and not

to exceed ten hours from the time of taking from the water bed or reef. Any person offending against this article shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than ten dollars nor more than two hundred and fifty dollars for each and every offense.

Article 529s. It shall be unlawful for any person to take or gather oysters from the public reefs or beds of the State for sale without having first procured a license from the Fish and Oyster Commissioner or his deputy. Any person offending against this article shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than ten dollars nor more than two hundred and fifty dollars; and any person offering for sale or selling oysters who is not a regular dealer or has not procured a license for gathering oysters, shall be considered as gathered for sale.

Article 529t. It shall be unlawful for any person gathering oysters for planting on locations obtained from the State, or on private property, to sell, market, or in any way dispose of oysters so gathered at the time of gathering for any other purpose than planting; provided, this shall not be considered as meaning the right to dispose of a location or oyster bed. Any person offending against this article shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than fifty dollars nor more than five hundred dollars.

Sec. 2. Whereas, the fact that the penal laws are now inadequate for the protection of the subjects of the foregoing act, therefore, an imperative public necessity exists that this act be passed under a suspension of the constitutional rule requiring a bill to be read on three several days, and that it take effect from and after its passage, and it is so enacted.

Sec. 3. That all laws and parts of laws in conflict herewith be and the same are hereby repealed.

[Note.—The foregoing act passed the House by a two-thirds vote, yeas 95, nays 3; and passed the Senate by a two-thirds vote, yeas 21, nays none.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Tuesday, the thirteenth day of April, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

H. B. No. 107.]

CHAPTER 99.

An Act to define and prevent "Cold Storage" in a local option county, precinct, city, town, or subdivision of a county, and to affix a penalty for running, keeping or maintaining them in such county, city, town, or subdivision.

Section 1. Be it enacted by the Legislature of the State of Texas: That if any house, room, tent, or any other place, within the limits of any county, precinct, city, town, or subdivision of a county, which has, or may hereafter, at a legal election held for that purpose, adopt the local option law, for such county, precinct, city, town, or subdivision of a

county, shall be run, kept, or maintained for the purpose of storing, cooling, or keeping cold any intoxicating liquor whatever for others; and any such house, room, tent, or other place, in any such local option county, precinct, city, town, or subdivision, which shall be used or occupied as a place to store or keep for any other person than the owner or proprietor of such house, room, tent, or other place, any intoxicating liquors whatever, whether for pay or otherwise; and any such house, room, tent, or other place, in any such local option county, precinct, city, town, or subdivision, at, in, or about which house, room, tent, or other place, the owner, proprietor, or the agent or employee of the owner or proprietor, may solicit or take or receive orders from others for any intoxicating liquors whatever, to be sent or delivered to such owner, proprietor, agent, or employee, for the person giving such order, shall be and constitute a "cold storage" within the meaning of this act; provided, that this act shall not be so construed as to prevent any person not the owner, proprietor, manager, agent, or employee of any such cold storage from ordering intoxicating liquors by telegraph, telephone, or express company, to be shipped by freight or express to his own address; and provided, further, that warehouses situated in any such local option county, precinct, city, town, or subdivision of a county, owned by breweries, and used exclusively for shipping into and storing their own products, which products are to be distributed in unbroken packages to dealers living outside of any local option county, precinct, city, town, or subdivision of a county, shall not be construed to be a "cold storage" within the meaning of this section; provided, further, that this act shall not prohibit the storing of intoxicating liquors in unbroken packages by manufacturers or wholesale dealers in any such local option county, precinct, city, town, or subdivision of a county, which may be there stored for distribution in unbroken packages to dealers outside of any local option county, precinct, city, town, or subdivision of a county.

Sec. 2. Any owner or proprietor, or any agent or employee of any owner or proprietor, or any other person, who shall keep, maintain, or manage any such cold storage, or be interested in keeping, maintaining, or managing any cold storage within any such county, precinct, city, town, or other subdivision, and any person who shall solicit or take orders for any intoxicating liquors, whatever, to be sent or shipped to any person who may keep, maintain or manage any such cold storage, or be interested in keeping, maintaining, or managing any cold storage, or to the agent or employee of any such cold storage, or to, or in, the care of any such owner, proprietor, agent, or employee, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be fined in any sum not less than one hundred dollars nor more than five hundred dollars, and in addition thereto shall be imprisoned in the county jail for a term of not less than twenty-five nor more than one hundred days.

Sec. 3. If any owner or proprietor of any cold storage, within any such county, precinct, city, town, or subdivision of a county, or the agent or employee of any such owner or proprietor, shall solicit or take any order for intoxicating liquors, to be shipped or sent into any such county, precinct, city, town, or subdivision of a county, and such intoxicating liquors shall be shipped or sent thereinto by reason of such order, it shall be deemed and construed in law that the sale was made and com-

pleted in the county, precinct, city, town, or subdivision in which such order was solicited or taken.

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Wednesday, the fourteenth day of April, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

Takes effect 90 days after adjournment.

H. B. No. 517.]

CHAPTER 100.

An Act to make it a felony for any president, director, manager, cashier, or other officer, of any bank, banking institution, or the owner, agent, or manager, of any private bank or banking institution, or the president, vice president, secretary, treasurer, director, or agent, of any trust company or institution, doing business in the State of Texas, to receive or assent to the reception of any deposit of money or other valuable thing in such bank, banking institution or trust company or institution; or for any such officer, owner, or agent, of such bank, banking institution, or president, vice president, secretary, treasurer, or director, or agent, of such trust company or institution, to create or assent to the creation of any debt, debts, or indebtedness, in consideration or by reason of which indebtedness any money or valuable property shall be received into such bank, or banking institution, or trust company or institution, after he shall have had knowledge of the fact that such bank, banking institution, or trust company or institution, or the owner or owners of any such private bank or institution, is insolvent or in failing circumstances; and to provide an appropriate penalty therefor.

Section 1. Be it enacted by the Legislature of the State of Texas: That if any president, director, manager, cashier, or other officer, of any banking institution, or the owner, agent, or manager, of any private bank or banking institution, or the president, vice president, secretary, treasurer, director, or agent, of any trust company or institution, doing business in this State, shall receive or assent to the reception of any deposit of money or other valuable thing into such bank or banking institution, or trust company or institution, or if any such officer, owner, or agent, of such bank or banking institution, or if any president, vice president, secretary, treasurer, director, or agent, of such trust company or institution, shall create or assent to the creation of any debt, debts, or indebtedness, in consideration of or by reason of which indebtedness any money or valuable property shall be received into such bank or banking institution, or trust company or institution, after he shall have had knowledge of the fact that such bank, banking institution, or trust company or institution, or the owner or owners of any such private bank, is insolvent or in failing circumstances, he shall be deemed guilty of a felony, and upon conviction thereof shall be punished by confinement in the penitentiary for a term of not less than two nor more than ten years; provided, that the failure of any such bank or banking institution, or trust company or institution, shall be prima facie evidence of knowledge on the part of any such officer or person that the same was insolvent or in failing circumstances when the money or property was received on deposit.

Sec. 2. That whereas, there is no law in this State properly defining the offense of receiving money or valuable things on deposit by presidents, directors, managers, cashiers, or other officers, of banks, banking institutions, nor by the owner, owners, agents, or managers, of private banks, banking institutions, or the presidents, vice presidents, secretaries, treasurers, directors, or agents, of trust companies and institutions, doing business in this State, or for creating or assenting to the creation of any debt or debts in consideration or by reason of which indebtedness any money or valuable property shall be received into such bank, banking institution, trust company or institution, after such officer or agent shall have had knowledge of the fact that such bank, banking institution, trust company or institution, or the owner or owners of any such institution, is insolvent or in failing circumstances, creates an imperative public necessity and an emergency which authorizes the suspension of the constitutional rule requiring bills to be read on three several days in each house, and said rule is therefore suspended.

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Wednesday, the fourteenth day of April, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

Takes effect ninety days after adjournment.

H. B. No. 77.]

CHAPTER 101.

An Act to amend Article 2396 of the Revised Civil Statutes of Texas, of 1895, by adding thereto the proviso that the proceeds of the voluntary sale of the homestead of a family shall not be subject to garnishment or forced sale within six months after such sale.

Section 1. Be it enacted by the Legislature of the State of Texas: That Article 2396 of the Revised Civil Statutes of the State of Texas be so amended as to hereafter read as follows:

Article 2396. The homestead of a family, not in a town or city, shall consist of not more than two hundred acres of land, which may be in one or more parcels, with the improvements thereon; the homestead in a city, town, or village, consisting of a lot or lots, not to exceed in value five thousand dollars at the time of their designation as a homestead, without reference to the value of any improvements thereon; provided, that the same shall be used for the purposes of a home, or as a place to exercise the calling or business of the head of a family; provided, also, that any temporary renting of the homestead shall not change the character of the same when no other homestead has been acquired; provided, further, that the proceeds of the voluntary sale of the homestead shall not be subject to garnishment or forced sale within six months after such sale.

Approved, April 26, 1897.

Takes effect 90 days after adjournment.

S. S. B. No. 133.]

CHAPTER 102.

An Act to define and prescribe the times for holding terms of the Courts of Civil Appeals in the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas: That the terms of the Courts of Civil Appeals in and for the several supreme judicial districts in the State of Texas shall commence on the first Monday in October of each year and shall continue in session until the first Monday in July of each succeeding year.

Sec. 2. The near approach of the close of the session, the crowded condition of the calendars of each house, and the importance of this act to the people of Texas, creates an emergency and imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this bill be put upon its third reading and final passage, and it is so enacted.

Approved, April 28, 1897.

Takes effect 90 days after adjournment.

S. B. No. 240.]

CHAPTER 103.

An Act to amend an act entitled "An Act to provide for the collection of taxes heretofore and that may hereafter be levied, making such taxes a lien on the lands taxed; establishing and continuing such lien; providing for the sale and conveyance of lands delinquent for taxes since January 1, 1885, which may have been returned delinquent or reported sold to the State, or to any county, city or town, for the tax due thereon and not redeemed, or which may hereafter be returned delinquent or reported sold to the State or to any county, city or town, to satisfy the lien thereon," as enacted by the regular session of the twenty-fourth Legislature, being Chapter 5 a of Title CIV of the Revised Civil Statutes of 1895, relating to delinquent taxes, and to repeal all laws in conflict with this act.

Section 1. Be it enacted by the Legislature of the State of Texas: That for the purpose of taxation real property shall include all lands within the State, and all buildings and fixtures thereon, and appertaining thereto, except such as are expressly exempted by law.

Sec. 2. All lands or lots which have been returned delinquent, or reported sold to the State, or to any city or town for taxes due thereon since the first day of January, A. D. 1885, or which may hereafter be returned delinquent or reported sold to the State or to any city or town, shall be subject to the provisions of this act, and said taxes shall remain a lien upon the said land, although the owner be unknown or though it be listed in the name of a person not the actual owner, and though the ownership be changed, the land may be sold under the judgment of the court for all taxes, interest, penalty and costs shown to be due by such assessment, for any preceding year.

Sec. 3. It shall be the duty of the Commissioners' Court of each county in this State immediately upon the taking effect of this act to cause to be prepared by the tax collector, at the expense of the county (the compensation for making out the delinquent tax record to be fixed by the

Commissioners' Court), a list of all lands, lots, or parts of lots sold to the State for taxes since the first day of January, 1885, and which have not been redeemed, in their respective counties, and unorganized counties attached thereto, and to have such lists recorded in books to be called the "Delinquent Tax Record," showing when the lands or lots were reported delinquent or sold to the State for taxes, also the name of the owner at the time of such sale or delinquency, if known, the numbers of acres, the amount of taxes due when first sold, and the amount of all taxes assessed against the owner thereof and returned delinquent for each year as shown by the records of the tax collector's office; and in making up the list or lists contemplated by this act, corrections and omissions in the description of any real estate embraced in such list or lists shall be made, so that when the corrections are made and the omissions supplied, the description will be such as is given in the abstracts of all the titled and patented lands in the State of Texas, or as required in section 12 of this act, such as may be furnished by the Commissioner of the General Land Office, and it shall be required in bulk assessments, to apportion to each tract or lot of land separately, its pro rata share of the entire tax, penalty and cost. The list for each county, when certified to by the county judge, and assessment rolls and books on file in the tax collector's office, shall be prima facie evidence that all the requirements of the law have been complied with by the officers charged with any duty thereunder, as to the regularity of listing, assessing, levying of all the taxes therein mentioned, and reporting as delinquent or sold to the State any real estate whatsoever, and that the amount alleged against said real estate is a true and correct charge; and in cases in which the description of the property in said list or assessment rolls or books, is not sufficient to properly identify the same, and of which property there is a sufficient description in the inventories in the assessor's office, then said inventories shall be admissible as evidence of the description of said property. This Delinquent Tax Record for each county shall be delivered to and preserved by the county clerk in his office, and the Commissioners' Court shall cause a duplicate of same to be sent to the Comptroller; provided, that where the records are incomplete in any county, it shall be the duty of the Comptroller to furnish such county with a certified copy of the delinquent list for any year or years.

Sec. 4. On receipt of such Delinquent Tax Record containing a complete list of the lands or lots that have been reported delinquent or sold to the State for taxes for any year or number of years since January 1, 1885, and containing, also, the data and information mentioned in Section 3 of this act, it shall be the duty of the county clerk of each of the counties of this State, respectively, to certify the same to the Commissioners' Court for examination and correction, and shall thereafter cause the same to be recorded in a book, which book shall be labelled the "Delinquent Tax Record of County." The Delinquent Tax Record shall be arranged numerically as to abstract numbers, and shall be accompanied by an index showing the names of delinquents in alphabetical order.

Sec. 5. Upon the completion of said Delinquent Tax Record by any county in this State, it shall be the duty of the Commissioners' Court to cause the same to be published in some newspaper published in the county, for three consecutive weeks; but if no newspaper is published in

the county, such list may be published in a newspaper outside of the county to be designated by the Commissioners' Court by contract duly entered into, and a publishers' fee of twenty-five cents shall be taxed against such tract or parcel of land so advertised, which fee, when collected, shall be paid into the county treasury, and the Commissioners' Court of said county shall not allow for said publication a greater amount than twenty-five cents for each tract of land so advertised, and said publication, and other publications in a newspaper provided for in this act, may be proved by the affidavit of the printer of the newspaper in which the publication was made, his foreman, or principal clerk, annexed to a copy of the publication, specifying the times when and the paper in which the publication was made; provided, that all corrections made in said record, under this section, be noted in the minutes of the Commissioners' Court, and shall be certified by the county clerk to the Comptroller, who shall note the same upon his Delinquent Tax Record; provided, that in the event such Delinquent Tax Record be not published correctly in accordance with the copy furnished such newspaper, then no compensation shall be allowed for such publication.

Sec. 6. Twenty days after the publication of such notice, or as soon thereafter as practicable, the Commissioners' Court, or the county judge acting for said court, shall file a list of all lands so advertised for taxes due for any year or numbers of years, the tax on which remains unpaid, with the county clerk of the county in which such lands are located, or if unorganized, then with the county clerk of the county to which said unorganized county may be attached for judicial purposes, and are to be sold under the provisions of this act, for all the taxes, interest, penalty, and costs, and shall cause suit to be filed in the name of the State of Texas, in the District Court of said county, or if unorganized, then, in the District Court of the county to which said unorganized county is attached for judicial purposes, stating therein by apt reference to lists or schedules annexed thereto, a description of all lands or lots in such county upon which taxes and penalty have remained unpaid for any year or number of years since the first day of January, 1885, and the total amount of such taxes, with interest computed thereon to the time fixed for the sale thereof at the rate of six per cent per annum, and shall pray for judgment for the payment of the several amounts so specified therein, and in default thereof, that such lands be sold to satisfy said judgment for all taxes, interest, penalty, and costs, and for such other relief to which the State may be entitled under the law and facts. All suits to enforce the collection of taxes, as provided in this act, shall take precedence and have priority over all other suits pending in the District Court. The petition in such suits shall be signed by the attorney bringing the suit, and shall be verified by the affidavit of said attorney, or the county judge, to the effect that the averments contained in said petition are true to the best knowledge and belief of affiant, and the pleadings of the defendant, except those of law, shall be verified by like affidavit of the defendant, his agent or attorney. The County Collector, County Clerk and County Assessor shall furnish all affidavits, certified copies of the records of their respective offices, and such other evidence as may be in their possession by virtue of such office, as may be applied for by the County Attorney.

Sec. 7. The proper persons shall be made parties defendant in such

suits and shall be served with process, and other proceedings had therein as provided by law for suits of like character in the District Courts of this State; and in case of foreclosure, an order of sale shall issue, and the land sold thereunder as in other cases of foreclosure; but if the defendant or his attorney, shall at any time before the sale, file with the sheriff or other officer in whose hands any such order of sale shall be placed, a written request that the property described therein shall be divided and sold in less tracts than the whole, together with a description of such subdivisions, then, such officer shall sell the lands in said subdivisions as the defendant may request, and in such case shall only sell as many subdivisions, as near as may be, to satisfy the judgment, interest, penalties, and costs, and after the payment of the taxes, interest, penalties, and costs, adjudged against it, the remainder of the purchase price, if any, shall be paid by the sheriff to the clerk of the court out of which said execution or other final process issued to be retained by him, subject to the order of the court for the period of two years, after which time the court may order the same to be paid to the State Treasurer, who shall hold same in trust to be paid to the owner against whom said taxes were assessed; provided, any one claiming the same shall make proof of his claim to the satisfaction of the State Treasurer, within ten years after the sale of said lands or lots, after which the same shall be governed by the law regulating escheats; provided, that no suit shall be brought to enforce such lien upon any land that a sufficient description to identify the same can not first be had; and provided, further, that if there shall be no bidder for such land that the county attorney shall bid said property off to the State for the amount of all taxes, penalties, interest, and costs adjudged against said property, and in the absence of the county attorney the sheriff is authorized to bid to the State, when there are no bidders; and it shall be the duty of the District Clerk to immediately make report of such sale in duplicate, one to the Comptroller of Public Accounts, and one to the Commissioners' Court, on blanks to be prescribed and furnished by the Comptroller. And in all such cases where the property is bid off to the State, it shall be the duty of the sheriff to make and execute deeds to the State, using forms to be prescribed and furnished by the Comptroller, showing, in each case, the amount of taxes, interest, penalty, and costs for which sold, and the clerk's fee for recording deeds as hereinafter provided. He shall cause such deeds to be recorded in the records of deeds, by the county clerk of his county, and when so recorded shall forward the same to the Comptroller; and the county clerk shall be entitled to a fee of one dollar for recording each such deed to the State, to be taxed as other costs. And when lands thus sold to the State shall be redeemed, it shall be the duty of the collector of taxes, when any such redemption is made, to make the proper distribution of the moneys received by him in such redemption, paying to each officer the amount of costs found to be due, and to the State and county the taxes, interest, and penalties due each, respectively.

Sec. 8. In all cases in which lands have been sold, or may be sold for default in the payment of taxes, it shall be lawful for the sheriff selling the same, or any of his successors in office, to make a deed or deeds to the purchaser or to any other person to whom the purchaser may direct the deed to be made, and any such deed shall be held in any court of law or

equity in this State to vest a good and perfect title in the purchaser thereof, subject to be impeached only for actual fraud.

Sec. 9. The county attorney, or district attorney in counties where there is no county attorney, shall represent the State and county in all suits against delinquent tax payers that are provided for in this act, and all sums collected shall be paid immediately to the county collector.

In no case shall the compensation for said county attorney be greater than three dollars for the first tract in one suit, and one dollar for each additional tract, if more than one tract is embraced in same suit to recover taxes, interest, penalty, and costs; provided, that those county attorneys who may have heretofore or may hereafter institute said suits shall be entitled to an equal division with their successor in office of the fees allowed herein on all suits instituted by them, where the judgment has not been obtained prior to the vacation of their office. The collector of taxes, for preparing the delinquent list and separating the property previously sold to the State from that reported to be sold as delinquent for the preceding year, and certifying the same to the Commissioners' Court, shall be entitled to a fee of one dollar for each correct assessment of the land to be sold, said fee to be taxed as costs against the delinquent. The sheriff shall be entitled to a fee of one dollar for selling and making deed thereto to each purchaser of land that he sells under judgment for taxes, which fee shall be taxed as costs of suit, and the District Clerk shall be entitled to a fee of one dollar and fifty cents in each case, to be taxed as costs of suit. And the County Clerk, for making out and recording the data of each delinquent assessment, and for certifying the same to the Commissioners' Court for correction, and for noting the same in the minutes of the Commissioners' Court, and for certifying the same, with corrections, to the Comptroller, and noting the same on his delinquent tax record, shall receive the sum of one dollar, to be taxed as costs against the land in each suit; provided, that in no case shall the State or county be liable for such fees, but in each case they shall be taxed as costs against the land to be sold under judgment for taxes and paid out of the proceeds of sale of same after the taxes, penalty, and interest due thereon to the State are paid; provided, that where two or more unimproved city or town lots belonging to the same person and situated in the same city or town shall all be included in the same suit and costs, except those of advertising, which shall be twenty-five cents for every ten lots, or any number less than ten, taxed against them collectively just as if they were one tract or lot; and, provided, further, that where suits have been brought by the State against delinquents to recover tax due by them to the State and county, the said delinquent may pay the amount of the tax, interest, penalties, and all accrued costs to the county collector during the pendency of such suit, and the county attorney shall receive as compensation therefor two dollars for the first tract and one dollar for each additional tract embraced in said suit, and the District Clerk shall receive only one dollar, and the sheriff only one dollar in each case; but these fees shall be in lieu of the fees provided for such officers where suits are brought as hereinbefore provided.

Sec. 10. If any person shall fail or refuse to pay the taxes imposed upon him or his property by law until the 31st day of January next succeeding the return of the assessment rolls of the county to the Comptroller, a penalty of ten per cent on the entire amount of such taxes shall accrue,

which penalty, when collected, shall be paid proportionately to the State and county, and the collector of taxes shall, by virtue of his tax rolls, seize and levy upon and sell so much personal property belonging to such person as may be sufficient to pay his taxes, together with the penalty above provided, interest, and all costs accruing thereon. If no personal property be found for seizure and sale, as above provided, the collector shall, on the 31st day of March of each year for which the State and county taxes, for the preceding year only, remain unpaid, make up a list of the lands and lots on which the taxes for such preceding year are delinquent, charging against the same all taxes and penalties assessed against the owner thereof.

Said list shall be made in triplicate and shall be presented to the Commissioners' Court for examination and corrections of any errors that may appear, and when so examined and corrected by the Commissioners' Court, such lists in triplicate shall be approved by said court, and one copy thereof shall be filed with the county clerk, and one copy retained and preserved by the collector, and one copy forwarded to the Comptroller with his annual settlement reports.

When such list of lands and lots, delinquent for the preceding year only, is corrected, as provided for in this section, then such list shall be immediately advertised, as provided for in section 5 of this act, and, after such advertisement, suit shall be instituted against delinquents for all taxes and penalties due, in the District Court, as above provided, and such list, as furnished by the tax collector, and corrected by the Commissioners' Court, and the assessment rolls or books on file in the collector's office, or either said list or assessment rolls or books shall be prima facie evidence that all the requirements of the law have been complied with by the officers or courts charged with any duty thereunder as to the regularity of listing, assessing, levying all taxes therein mentioned, and reporting as delinquent any real estate whatsoever, and that the amount alleged against said real estate is a true and correct charge; and in cases in which the description of the real estate in said list or assessment rolls or books is not sufficient to identify the same, and of which property there is a sufficient description in the inventories of the assessor's office, then said inventories shall be admissible as evidence of the description of said property.

In the counties where the Delinquent Tax Record for former years has not been furnished, as provided for in Section 3 of this act, the collector of taxes shall, also, at the same time, make, in triplicate, a list of all lands and lots that have been previously sold to the State for taxes of former years, which have not been redeemed and on which the taxes are delinquent for the preceding year, and shall present the same to the Commissioners' Court for examination and correction of any error that may appear, and when so examined and corrected by the Commissioners' Court, such lists, in triplicate, shall be approved by said court, and one copy thereof shall be filed with the county clerk, one retained and preserved by the collector, and one copy forwarded to the Comptroller, with his annual settlement reports.

Sec. 11. Any incorporated city or town or school district shall have the right to enforce the collection of delinquent taxes due it under the provisions of this act.

Sec. 12. Real estate which may have been rendered for taxes and

paid under erroneous description given in assessment rolls, or lands that may have been doubly assessed and taxes paid on one assessment, or lands which may have been assessed and taxes paid thereon in a county other than the one in which they are located, or lands which may have been sold to the State and upon which taxes have been paid and through error not credited in the assessment rolls, shall not be deemed subject to the provisions of this act.

When called upon, the Commissioner of the General Land Office shall furnish the County Judge of any county compiling its own delinquent tax record, officially, with such information as may be necessary to enable him to determine the validity or locality of such surveys and grants as have not been shown by the printed abstracts of the Land Office.

Sec. 13. Any delinquent tax payer whose lands have been returned delinquent or reported sold to the State for taxes due thereon, or any one having an interest therein, may redeem the same at any time before his lands are sold under the provisions of this act by paying to the collector the taxes due thereon since January first, 1885, with interest at the rate of six per cent per annum and all costs and the penalty of ten per cent, as provided for in Section 10 of this act; provided, such penalty has accrued under the provisions and since the passage and taking effect of this act.

Sec. 14. Where lands are sold under the provisions of this act, the owner or any one having an interest therein, shall have the right to redeem said land, or his interest therein, within two years from the date of said sale upon the payment of double the amount paid for the land.

Sec. 15. Wherever the owner or owners of any lands or lots returned delinquent or reported sold to the State, or that may hereafter be reported sold or returned delinquent for the taxes due thereon for any year or number of years, are non-residents of the State, or the name of the owner or owners of said land or lots be unknown, then upon affidavit setting out that the owner or owners are non-residents or that the owner or owners are unknown to the attorney for the State and after enquiry can not be ascertained, said parties shall be cited and made parties defendant by notice in "The name of the State and county directed to all persons owning or having or claiming any interest in the following described land delinquent to the State of Texas and county of ———, for taxes, to-wit: (here set out description of the land as contained on the assessment roll and such further description obtainable in the petition), which said land is delinquent for taxes for the following amounts. \$—— for State taxes, and \$—— for county taxes, and you are hereby notified that suit has been brought by the State for the collection of said taxes, and you are commanded to appear and defend such suit at the ——— term of the District Court of ——— county, and State of Texas, and show cause why judgment shall not be rendered condemning said land (or lot), and ordering sale and foreclosure thereof for said taxes and costs of suit," which notice shall be signed by the clerk and shall be published in some newspaper published in said county one time a week for three consecutive weeks. If there is no newspaper published in the county then notice may be given by publication in a paper in an adjoining county. A maximum fee of 2½ cents per line (seven words to count a line) for each insertion may be attached for publishing the citation as above provided for. If the publication of such citation can not

be had for the compensation provided for in this section then publication of the citation herein provided may be made by posting a copy at three different places in the county, one of which shall be at the court house door. It shall be lawful in all cases to set forth in the petition the name of all parties interested as far as ascertained, and make them parties, and also to join and make defendants all persons having or claiming any legal or equitable interest in the land described in the petition, and such suit after such publication shall be proceeded with as in other cases, and whether any party or parties make defense or not on the trial of said case the State and county shall be entitled to prove the amount of taxes due and shall have a decree for the sale of said land or lot as in those cases where defendant owners have been personally served and defend suit, and a sale of said land or lot shall be had and be as binding as where defendants were personally served with process. In all suits for taxes due the defendant shall be entitled to credits he can show due him for any year or number of years for which he may be able to produce receipts, but the State shall have judgment and foreclosure of tax lien for any year or years sued for where the defendant can not offer receipt or other positive proof showing the payment of the claim for the taxes.

Sec. 16. In any incorporated city or town in which any lots or blocks of land situated within the corporate limits of said city or town have been returned delinquent or reported sold to said city or town for the taxes due thereon, the City Council may prepare lists of delinquents in the same manner as is provided for in Section 3 of this act, and when such lists shall be certified to as correct by the Mayor of said city or town, the City Council may direct the City Attorney to file suit in the district court of the county in which said city or town is situated, for the recovery of the taxes due on said property together with penalty, interest, and costs of suit, which suits may be brought in the same manner as is provided in Section 5 of this Act for the bringing of suits by the County Attorney.

Sec. 17. That in counties in which the subdivisions of surveys are not regularly numbered, and in cities or towns in which the blocks or subdivisions are not numbered, or are so irregularly numbered as to make it difficult or impossible for the Assessor to list the same, the Commissioners' Court of such counties may have all the blocks and subdivisions of surveys platted and numbered so as to identify each lot or tract, and to furnish the Assessor with maps showing such numbering; and an assessment of any property by such numbering on said maps shall be sufficient description thereof for all purposes, and such maps, or a certified copy of same or any part thereof, shall be admissible as evidence in all courts; provided, that the cost of making said survey and plats shall be defrayed by the county in which said property is situated and of which the said Commissioners' Court ordered the said surveys and plats made; provided, that the cost of any map of a town or city shall be paid by such town or city when ordered by the town or city.

Sec. 18. That all laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

Sec. 19. The fact that the passage of this law will facilitate the collection of taxes, and provide the method of reporting the same to the Comptroller, supplying needed omissions in existing laws, creates an

emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act passed the Senate by a two-thirds vote, yeas 26, nays none; and having passed the House with amendments by a two-thirds vote, yeas 103, nays 4, in which the Senate refused to concur, was referred to a free conference committee, the report of which was adopted in the Senate by a two-thirds vote, yeas 23, nays none; and adopted in the House, yeas 71, nays 15.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Wednesday, the fourteenth day of April, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

H. B. No. 518.

CHAPTER 104.

An Act to amend Articles 5243e, 5243i, 5243j, and 5243k, of Chapter 9, Title 104, of the Revised Civil Statutes relating to the taxation of Insurance, Telephone, Sleeping and Dining Car and other corporations, and to provide for forfeiting the charters of domestic corporations and permits of foreign corporations to do business in this State for failure to pay the franchise tax levied by this act, and to define and prescribe the notice to be given to said corporations previous to such forfeiture, and to provide adequate penalties for the violation of this act.

Section 1. Be it enacted by the Legislature of the State of Texas: That Articles 5243e, 5243i, 5243j, and 5243k, of Chapter 9, Title 104, of the Revised Civil Statutes be amended so as to hereafter read as follows:

Article 5243e. Every Life, Fire, Marine, Accident or other Insurance Company at the time of its filing its annual statement shall report to the Commissioner of Insurance the gross amount of premiums received in this State during the preceding year, and each life insurance company and life and accident insurance company shall pay an annual tax of 2 per cent on such gross premium receipts; and each fire insurance company shall pay an annual tax of one-half of one per cent, and each marine, health, live stock, guarantee or accident insurance company shall pay an annual tax of one per cent on such premium receipts; and the gross premium receipts are understood to be the premium receipts reported to the Commissioner of Insurance by the insurance companies on sworn statements. Upon receipt by him of sworn statements showing the gross premium receipts by such companies, the Commissioner shall certify to the State Treasurer the amount of tax due by each company, which tax shall be paid to the State Treasurer for the use of the State on or before the first day of March following, whose receipt shall be evidence of payment of such taxes, and no insurance company shall receive a permit to do business in this State until such taxes are paid; provided, that no occupation tax shall be levied on any insurance company by any county, city, or town, but this article shall not be construed to

prohibit the levy of such county, State, and municipal taxes upon the real and personal property of such companies.

Article 5243i. Each and every private domestic corporation hertofore chartered under the laws of this State, shall pay to the Secretary of State an annual franchise tax of ten dollars, to be paid on or before the first day of May of each year, and every such corporation which shall be hereafter chartered under the laws of this State, shall also pay to the Secretary of State an annual franchise tax of ten dollars, the tax for the first year to be paid at the time such charter is filed, and the Secretary of State shall not be required or permitted to file such charter until said tax is paid; and each succeeding tax shall be paid on or before the first day of May of each year thereafter; provided, that any such corporation having a capital stock of over \$50,000.00 and less than \$100,000.00 shall pay an annual franchise tax of \$20.00; and having a capital stock of over \$100,000.00 and less than \$200,000.00, shall pay an annual franchise tax of \$30.00; and having a capital stock of over \$200,000.00 shall pay an annual franchise tax of \$50.00. And each and every foreign corporation having an authorized capital stock of one hundred thousand dollars or less which has heretofore received a permit to do business in this State, under the laws of this State, shall pay to the Secretary of State an annual franchise tax as follows: Each and every foreign corporation having a capital stock of \$25,000 or less, an annual franchise tax of \$25.00; each and every foreign corporation having a capital stock of more than \$25,000.00, and not exceeding \$100,000.00, an annual franchise tax of \$100.00, to be paid on or before the first day of May of each year; and every such corporation which shall hereafter receive such permit shall also pay to the Secretary of State an annual franchise tax of fifty dollars, the tax for the first year to be paid at the time such permit is issued, and the Secretary of State shall not be required or permitted to issue said permit until said tax is paid, and each succeeding tax shall be paid on or before the first day of May of each year thereafter. And any such corporation having an authorized capital stock of more than one hundred thousand dollars shall in addition to the franchise tax of fifty dollars, as above provided, also pay a franchise tax of one dollar for every ten thousand dollars of their capital stock over and above one hundred thousand dollars. And any corporation which shall fail to pay the tax provided for in this article, at the time specified herein, shall, because of such failure, forfeit its right to do business in this State, which forfeiture shall be consummated without judicial ascertainment by the Secretary of State entering upon the margin of the ledger kept in his office relating to such corporations, the word "Forfeited." giving the date of such forfeiture; and any corporation whose charter may be thus forfeited shall be denied the right to sue; provided, in any suit against such corporation, on a cause of action arising before such forfeiture, no affirmative relief may be granted to such defendant corporation, unless its charter is revived, as provided in Article 5243j. All transportation companies now paying an annual income tax on their gross receipts in this State shall be exempted from the provisions of this act.

Article 5243j. The Secretary of State shall, on or before the first day of March of each year, notify all private domestic and foreign corporations subject to a franchise tax by any law of this State, by mailing to the post-

office named as the principal place of business of such corporation in its articles of incorporation, or to any other place of business of such corporation, addressed in its corporate name, a written or printed notice that such tax will be due at a date named therein, a record of the date of which mailing must be kept by said officer, and which mailing of such notice and the said record thereof shall constitute legal and sufficient notice for all the purposes of this article; and in thirty days after the first day of May of each year, said officer shall publish for ten consecutive days, in some daily newspaper published in this State, a list of the corporations whose rights to do business in this State have been forfeited for non-compliance with this chapter; provided, that any corporation which shall, within six months after such publication, pay the tax and five dollars additional thereto, for each month or fractional part of a month, which shall elapse after such forfeiture, shall be relieved from the forfeiture of its charter by reason of such failure, and when such tax and the said penalty are fully paid to the Secretary of State, it shall be the duty of said officer to revive and reinstate said forfeited charter by erasing or cancelling the word "Forfeited" from his ledger, and substituting therefor the word "Revived," giving the date of such revival. Provided, further, that this chapter shall not be construed to repeal any law prescribing fees to be collected by the Secretary of State.

Article 5243k. Corporations organized for the purpose of religious worship, or for holding places of burial, not for private profit, or corporations organized for the purpose of holding agricultural fairs, and encouraging agricultural pursuits, or for strictly educational purposes, or for purely public charity, are exempted from the tax imposed by this act.

Every person, firm, corporation or association owning, controlling, managing or operating any dining or sleeping cars within this State for the use of the public, and for which use any fare is charged, shall pay a tax of ten cents for every one hundred miles over which each of said cars may be operated on any line of railroad wholly or in part within this State. Said tax herein provided for shall be paid to the State Treasurer, quarterly, for the use of the State, and every such company, association, person or corporation so owning, controlling or managing any such dining or sleeping car, shall, quarterly, report to the Comptroller of the State of Texas, the number of miles each and every such car has been transported over any line of railway situated wholly or in part within this State during the preceding quarter, and it is hereby made the duty of every conductor, agent or employe controlling, or operating any such dining or sleeping car herein mentioned to make said report and to see that same is done at the end of each quarter as herein provided. Should any person, association of persons, or corporation, or employes or agents of any such person, association, or corporation herein named, fail to make the report provided in this act, for 30 days after the termination of any quarter of the year, then he shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not less than \$50, nor more than \$100, and each day after the said 30 days has expired, shall be deemed a separate offense.

It is not intended by this act to repeal any law now in force in this State taxing sleeping and dining car companies, associations or persons owning same.

Sec. 2. All laws or parts of laws in conflict with this act shall be, and the same are hereby repealed.

Sec. 3. The fact that the close of this session is rapidly approaching, and the further fact that the State is greatly in need of revenue, creates an emergency, and an imperative public necessity exists that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect from and after its passage, and it is so enacted.

Approved, April 30, 1897.

[Note.—The foregoing act passed the House by a two-thirds vote, yeas 88, nays 4; and having passed the Senate with amendments by a two-thirds vote, yeas 23, nays 1, the House concurred in the Senate amendments by a vote of yeas 73, nays 16.]

H. B. No. 556.]

CHAPTER 105.

An Act authorizing certified copies of instruments conveying land in Archer county, recorded in Jack county from the 10th day of August, 1866, to the 10th day of August, 1870, to be admitted in evidence in all suits where secondary evidence is necessary.

Whereas, from the 10th day of August, 1866, to the 10th day of August, 1870, inclusive, the unorganized county of Archer was attached to the organized county of Jack for registration purposes, and whereas, the record containing conveyances of land situated in Archer county, recorded in Jack county from the 10th day of August, 1866, to the 10th day of August, 1870, has been moved from Jack county to the county of Shackelford, and said record is now in the archives of the office of the clerk of the county court of Shackelford county: Therefore, Be it enacted by the Legislature of the State of Texas:

Section 1. That certified copies of deeds, mortgages, trust deeds, and all other instruments in any manner affecting titles to lands in Archer county which were recorded in Jack county from the 10th day of August, 1866, to the 10th day of August, 1870, said certified copies made under the hand and seal of the clerk of the county court of Shackelford county, be admitted in evidence in all suits where secondary evidence is admissible.

Sec. 2. Whereas, There is great uncertainty and difficulty for legal and equitable owners of lands situated in Archer county, to make proof of their title, by reason of the removal of said record from Jack county to Shackelford county, and in order to provide a rule of evidence that proof can be made of titles to land in Archer county, and to prevent litigation, an emergency exists, and public necessity requires that the rule requiring bills to be read on three several days be suspended, and that this act take effect and be in effect from and after its passage, and it is so enacted.

[Note.—The foregoing act passed the House by a two-thirds vote, yeas 95, nays none; and passed the Senate by a two-thirds vote, yeas 21, nays 1.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Friday, the twenty-third day of April, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

S. B. No. 366.]

CHAPTER 106.

An Act for the establishment of a public park on the site of the battle field of San Jacinto, and providing for the purchase and condemnation of a sufficient amount of land upon which to establish said park, and making an appropriation therefor.

Section 1. Be it enacted by the Legislature of the State of Texas: That it is necessary for the public use that the State of Texas own two hundred and fifty acres of land on the site of the battle field of San Jacinto, in Harris county, Texas, in addition to what it already owns, for the use of the State for public purposes as a public park, and that the sum of ten thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of any money in the State treasury not otherwise appropriated, for the purchase by agreement or condemnation by the State of Texas of any tract or tracts of land constituting and composing a part of said battle field, and enclosing the same, which may be selected by the commissioners hereinafter provided for, not exceeding two hundred and fifty acres, situated on the site of the said battle field, for the use of the State, as a public park; and said commissioners may purchase or condemn for the State, such portion of the site of said battle field as they may in their discretion deem proper, within the restrictions and limitations hereinafter imposed.

Sec. 2. That the Governor shall, upon the taking effect of this act, or as soon thereafter as practicable, appoint three commissioners, who shall enter into a bond payable to the Governor of Texas or successors in office, in the sum of ten thousand dollars, conditioned that they will well and truly discharge their duties as such commissioners, and faithfully expend said money and make due report to the Governor of their action; and who shall have the powers and duties mentioned in the sections following, and who shall serve without compensation; provided, that a majority of said commissioners may act, and a decision of the majority shall be sufficient on all matters coming before them.

Sec. 3. It shall be the duty of the said commissioners to purchase the land necessary for said park, or so much thereof as they may be able to acquire within the limitations and restrictions of this act, and they shall have full powers in the selection of said land, and to select the same, and to arrange and carry through the terms of sale and purchase.

Sec. 4. The commissioners provided herein are authorized to pay for the land they may designate and select for said park, whatever they may consider the fair and reasonable market value of the same; provided, the price to be agreed upon therefor does not exceed twenty-five dollars per acre; but should said commissioners, for any reason, fail or be unable to agree with any owner or owners of any of said land, as to the price to be

paid therefor, then they shall take steps to condemn the same, in the name of the State of Texas, and in order to effect this purpose, it shall be the duty of said commissioners to cause to be stated in writing, the real estate or property sought to be taken, the name of the owner or owners thereof and the residence of such owner, of known, and file such statement with the county judge of Harris county. Upon the filing of the statement provided for in this section, it shall be the duty of said county judge in term time or vacation to appoint three disinterested freeholders and qualified voters of Harris county as special commissioners to assess the damages to accrue to the property by reason of such condemnation. The special commissioners so appointed to assess such damage shall in their proceedings be governed and controlled by the laws in force in reference to the condemnation of the right of way for railroad companies and the assessment of damage therefor, and the proceedings shall be in accordance with such law, the State of Texas occupying the position of the railroad company, and all laws in reference to the applications for the condemnation for right of way of railroad companies, including the measure of damages, the service, actual or constructive, on the property owner, the right of appeal, and the like, not inconsistent with other provisions of this act, shall apply to the application by the State, in these proceedings, but it is specially provided that in the event of condemnation proceedings the damages assessed for the taking of any tract or parcel of land shall in the discretion of the commissioners herein provided for be deemed excessive and greater than a reasonable and adequate compensation therefor, or exceed the average twenty-five dollars per acre for the entire number of acres acquired under such condemnation, said commissioners shall decline and refuse to pay the same, and in such event the State of Texas shall pay the court costs of such proceedings, and no further action thereunder shall be taken.

Sec. 5. Before any purchase or condemnation of any land shall be consummated under this act, a proper and complete abstract of the title thereto shall be by said commissioners presented to the attorney general and shall be examined and approved by him, showing, in his opinion, in whom the legal title thereto is vested, and upon such approval of the title by the attorney general, then, in the event either of purchase by agreement or by condemnation, the commissioners hereby appointed shall make an application in writing, and under oath, addressed to the treasurer of the State of Texas, stating the amount of land to be acquired, from whom acquired, how acquired, and the price to be paid therefor, and when such application has been approved by the governor, it shall be a sufficient warrant, and the treasurer is hereby required to pay the same, and each of them so made within the provisions and limitations of this act. and the appropriation hereby made, and said commissioners shall then take proper conveyances or evidences of title placing the title to said land in the State of Texas and pay the owner or owners therefor.

Sec. 6. Such reasonable and necessary expenses as may be incurred by the commissioners, personally, and in the employment of engineers and surveyors as may be necessary in carrying out the provisions of this act, shall be presented in writing and under oath to the governor, and if approved by him as reasonable and correct, shall be audited as other

claims and paid out of the appropriation herein made. Said commissioners shall on the completion of their services herein provided for, and not later than the first day of January, 1899, make a full report to the Governor with an itemized statement of all expenditures and all acts done and performed under this act.

Sec. 7. The great number of bills now pending before both houses of the legislature, and the near approach of the end of the session, create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect from and after its passage, and it is so enacted.

Approved, May 6, 1897.

[Note.—The foregoing act passed the Senate by a two-thirds vote, yeas 21, nays 1; and having passed the House with amendments (vote not given), the Senate concurred in the amendments (vote not given).]

H. B. No. 337.]

CHAPTER 107.

An Act to amend Article 207, Chapter 1, Title 8, of the Penal Code, relating to the crime of perjury, and fixing a penalty therefor.

Section 1. Be it enacted by the Legislature of the State of Texas: That Article 207, Chapter 1, Title 8, of the Penal Code of the State of Texas, be and the same is hereby amended so as to hereafter read:

Article 207. The crime of perjury, except as in cases provided for in Article 208 of the Penal Code, shall be punished by imprisonment in the penitentiary for a term, not more than ten years, nor less than two years.

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Monday, the twenty-sixth day of April, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

Takes effect 90 days after adjournment.

H. B. No. 589.]

CHAPTER 108.

An Act to amend Article 2313, Chapter 4, Title 40, of the Revised Civil Statutes of the State of Texas, 1895, relating to the introduction of certain abstracts of titles as evidence.

Section 1. Be it enacted by the Legislature of the State of Texas: That Article 2313, Chapter 4, Title 40, of the Revised Civil Statutes of the State of Texas, 1895, be amended so as to hereafter read as follows:

Article 2313. All abstracts of land titles, or land abstract books to land in this State, compiled from the records of any county in this State prior to the year 1877, which said records were partially or wholly destroyed or lost from any cause during the months of May, 1874, and

March, 1876, shall hereafter be competent *prima facie* evidence of the truth of the data or memoranda therein contained and compiled prior to the year 1877, and shall be admissible in evidence in the courts of this State; provided, that the compiler of such abstracts of land titles or land title abstract books shall have made heretofore, or before offered in evidence, affidavit before some officer authorized at the time of making such affidavit to take acknowledgments to deeds in this State, and to the effect that said abstracts of land titles or land title abstract books were compiled by him from the records of the county prior to their destruction or loss, and that they contain a true and correct statement of the matters and things to which they relate; and provided, also, that it shall be admissible to offer in evidence any testimony tending to discredit or substantiate the reliability of such abstract of land titles or land title abstract books, or tending to show the compiler thereof to have been incompetent or unreliable, or competent and reliable; and provided, further, that a copy of such abstract shall be filed in the papers of the cause in which it is sought to be used, and notice given to the opposite party at least five days before the trial, and the same defenses may be made as if copies of the original record had been filed; provided, further, that the party offering such abstracts of land titles or land title abstract books in evidence shall himself or by his agent or attorney have made affidavit that the original instrument to which the said data or memoranda relates is not then on record; that he has made diligent search and inquiry for the same in places and from persons where and in whose possession it would most probably be found, and has been unable to find the same; that to his best knowledge and belief the same is lost or destroyed; and provided, further, that the owner of said abstracts of land titles or of land title abstract books shall have filed with the county commissioners' court his application in writing (which may be granted, or refused, in the discretion of said court, and if refused, this article shall not become of force as to said application so refused) for an order of said court admitting to record in said court the contract of the said owner in writing wherein the said owner shall bind himself, his heirs and assigns, as follows: That said owner, his heirs or assigns, will, whenever requested in writing, setting forth the data required by any party to any suit interested in introducing said abstracts of land titles or land title abstract books, produce the same without charge on the day demanded for introducing in evidence, and upon the trial of any cause in this State; provided, that if said owner, his heirs or assigns, are required to produce said abstracts of land titles or land title abstract books in courts of any other county than that to the lands of which said abstracts of land titles or land title abstract books pertain, they shall be, by the party at whose instance such production is required, reasonably compensated in advance for the time and expenses of the said owner, his heirs or assigns.

And the said owner in said contract shall bind himself, his heirs and assigns, to answer in full damages to any party damaged by the failure or default of the said owner, his heirs or assigns, without good cause, to produce said abstracts of land titles or land title abstract books, data or memoranda, when demanded, as herein provided.

And said contract shall further stipulate that no charge shall ever be made by said owner, his heirs or assigns, in excess of one dollar for each instrument or remove in any title in the compilation of a complete ab-

abstract or title to the lands in the county to which said abstracts of land titles or land title abstract books pertain, and that said owner, his heirs and assigns, will, upon request and payment of the fees therefor by any person, either make, compile, and certify, or cause to be made, compiled or certified, within a reasonable time, a complete abstract of title to any lands to which said abstracts of land titles or land title abstract books pertain; provided, that nothing herein contained shall ever be construed to any way affect or apply to any suit or suits pending in any of the courts of this State on the twelfth day of July, 1891; provided, further, that the provisions of this article shall not apply, if it can be shown by competent evidence that any such deeds were improperly recorded.

Sec. 2. Whereas, the enacting at this session of the present Legislature of the legislation contemplated by this bill is imperiled by the great number of bills pending before that body, therefore an emergency exists creating an imperative public necessity justifying the suspension of the constitutional rule requiring bills to be read on three several days, and it is therefore suspended, and that this act take effect and go into force from and after its passage, and it is so enacted.

[Note.—The foregoing act passed the House by a two-thirds vote, yeas 87, nays none; and passed the Senate by a two-thirds vote, yeas 21, nays none.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Monday, the twenty-sixth day of April, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Mad-den, Secretary of State.]

H. B. No. 124.]

CHAPTER 109.

An Act to provide for the survey of lands to be set apart as a permanent endowment fund for the Branch University for colored people of this State.

Section 1. Be it enacted by the Legislature of the State of Texas: That the Governor and Commissioner of the General Land Office be and they are hereby authorized to contract with and appoint a competent surveyor to survey and return to the General Land Office plats and field notes of one hundred thousand acres of land, to be surveyed out of any of the vacant public and unsurveyed lands of this State in the manner herein-after provided. They shall contract with such competent surveyor at the lowest price consistent with competency and efficiency in discharging the duties of surveyor. If they deem it necessary they may advertise for bids from surveyors. The surveyor so appointed shall enter into a good and sufficient bond in a sum of not less than double the contract price of the surveys, conditioned that he will faithfully comply with the requirements of this act, which bond shall be payable to the governor of the State, and be approved by him.

Sec. 2. The Commissioner of the General Land Office shall furnish the surveyor appointed under authority of this act with sketches show-

ing connections with any existing and established corners from which he may begin the surveys. He shall survey the lands into sections of 640 acres and in blocks after the manner of the railway surveys now existing in this State, and shall make plats of each block and survey, numbering the blocks in numerical order, beginning with number one, and shall also number each section in each block in the same manner, beginning with number one in each block. In all cases he shall mark and establish two corners on the ground for each survey, and the lines between which, if in timber, shall be distinctly marked. Said corners shall be made with at least two bearings, if in timber, and if in prairie, by earth mounds six feet in diameter and three feet high, or with a pile of rocks not less than two feet high. He shall actually survey each section on the ground and sign the field notes, himself, of each survey separately and have his chain carriers to attest the field notes of each survey by their own signatures. The surveyor shall then certify that he actually surveyed the land embraced in the field notes, on the ground, and that the field notes correctly describe the land. He shall have the field notes of each survey and plat recorded in the surveyor's record of the county or counties in which the lands surveyed are situated or in the county to which such county may be attached for surveying purposes in the manner now required by law. He shall, however, first forward the field notes of all surveys made in any county to the commissioner of the land office for examination both as to correctness and as to conflicts with older valid surveys, and upon their return to the surveyor, after being approved by the commissioner, they shall be recorded as above required. After the field notes are recorded the said surveyor shall make a plat of each block of surveys according to the field notes so made by him, and return same, together with the original field notes, recorded, to the general land office. All the lands surveyed as required by this act shall thereafter be mapped in the land office and shall be known and designated as the Branch University surveys for the colored people.

Sec. 3. It shall be the duty of the commissioner to have the sections carefully numbered on the map in accordance with the field notes of the surveys and blocks so returned by the surveyor. The odd numbered surveys shall thereafter be set apart and constitute a permanent endowment for a branch University for the colored people, and the even numbered sections shall thereafter be set apart and constitute a permanent endowment for the public free schools of the State. None of the odd numbered lands surveyed, as required by this act, shall be put on the market and disposed of by the commissioner of the land office, but shall be under the control of the Board of Regents for the University of Texas, and held by the board in trust for the benefit of the said branch University for the colored people. All the funds received by said board for leases or sale of said lands shall be held sacred for the benefits and uses herein designated. The commissioners shall not sell the even numbered sections set apart herein for the public free school fund, but may lease the same to such persons only as may lease from the board of regents the odd numbers. Whenever the board may desire to sell said lands, they may contract for its sale, and the purchaser, upon exhibiting to the commissioner of the land office such contract and depositing with him a duplicate copy of the same, the commissioner may also sell the school sections corresponding with such odd numbers on the same terms and at the same price per acre

as that embraced in the contract; provided, it shall not be sold for less than one dollar per acre: The proceeds to be paid into the treasury of the State, as now provided by law.

Sec. 4. Any of the vacant and unsurveyed public domain situated in any of the counties embraced in Chapter XXXIII, approved March 11, 1881, may be surveyed for the purposes set out in this act, notwithstanding any reservation therein or elsewhere.

Sec. 5. If any sale shall be made of the school lands herein as provided in Section 4 of this act, and any payment of principal or interest shall not be made according to the contract of sale, it shall be the duty of the commissioner of the general land office to forfeit the contract without judicial ascertainment, as now provided by law, and the contract shall contain a stipulation authorizing such forfeiture which shall be signed by the purchaser.

Sec. 6. The surveyor shall be paid by a warrant of the comptroller drawn on the treasurer of the State out of the general revenue upon the presentation to the comptroller of the certificate of the commissioner of the general land office certifying that the lands have been surveyed and field notes and plats have been properly returned to the land office. He shall also reimburse in the same manner the contractor for any sum of money for fees which he may have paid to the county surveyor for recording field notes and plats, not in excess of the fees now provided by law for such recording.

Sec. 7. The near approach of the end of this session of the Legislature creates an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that the bill be put upon its third reading and final passage.

Approved, May 7, 1897.

Takes effect 90 days after adjournment.

S. B. No. 322.]

CHAPTER 110.

An Act to create a more efficient road system for Ellis County, Texas, and making County Commissioners of said county *ex officio* Road Commissioners, and prescribing their duties as such, and providing for their compensation as Road Commissioners, and providing for the appointment of Deputy Road Commissioners, and defining the powers and duties of such County Commissioners, and providing for the appointment of Road Overseers, and defining their duties, and for the working of county convicts upon the public roads of said county, and providing for officers' fees, and rewards for the capture of escaped convicts, and to provide for the manner of training hedges along any public road, and to provide for the summoning of teams for road work, and for an allowance of time of road service for same, and fixing a penalty for a violation of this act, and repeal all laws in conflict with this act.

Section 1. Be it enacted by the Legislature of the State of Texas: That each of the duly elected and qualified County Commissioners of Ellis County, Texas, shall be *ex officio* Road Commissioners and general road supervisors of their respective districts, and under the direction of the Commissioners' Court of his county shall have charge of all teams, tools and machinery belonging to the county and placed in his hands by said

court, and it shall be his duty, under such rules and regulations as the Commissioners' Court may prescribe, to superintend the laying out of new roads, the making or changing of roads and the building of bridges. Each of said commissioners shall, before entering upon the duties of his office, in addition to his regular bond as such County Commissioner, execute a bond of one thousand dollars, with two or more good and sufficient sureties, payable to the county judge and his successors in office, of said county, for the use and benefit of the road and bridge fund, conditioned that he will perform all the duties required of him by law, or by the Commissioners' Court, and that he will account for all moneys or property that may come into his possession, belonging to the county; provided, that with the consent of the Commissioners' Court, any one of said commissioners shall be allowed to appoint any competent person as Deputy Road Commissioner, who shall be required to execute the same bond that is required of commissioners in this section; and such Deputy Road Commissioner shall be entitled to the same compensation that is allowed County Commissioners for same service; provided, that County Road Commissioners shall not be allowed any compensation as Road Commissioners when a Deputy Road Commissioner [has] been appointed.

Sec. 2. The Commissioners' Court of said county shall have full power and authority, and it shall be its duty, to adopt such system for working, laying out, draining and repairing the public roads in said county as it may deem best, and from time to time said court may change its plan or system of working. Said Commissioners' Court shall have power to purchase such teams, tools and machinery as may be necessary for the working of its roads. Said court shall have the power to construct, grade, or otherwise improve any road or bridge by contract. In such case, said court, or the County Judge, by the authority of the Commissioners' Court, may advertise in such manner as said court may determine for bids to do such work, and the contract shall be awarded to the lowest responsible bidder, who shall enter into bond payable to the County Judge of said county and his successors in office, for the use of the road and bridge fund, with good and sufficient sureties to be approved by said court, and in such sum as said court may determine, for the faithful compliance with the terms of said contract; but said court shall have the right to reject any and all bids. At the time of making such contract, the court shall direct the County Treasurer to pass the amount to a particular fund for that purpose, and the Treasurer shall keep a separate account of such funds, and the same shall not be used for any other purpose, and can only be paid out on the order of said court; and the said Commissioners' Court shall have the power to employ any hands or teams to work on the roads of said county, under such regulations, and for such price as it may deem proper.

Sec. 3. The Commissioners' Court of said county shall require all county convicts not otherwise employed, to labor upon the public roads, under such regulations as said court may prescribe, and each convict so worked shall receive a credit of fifty cents on his fine, first, and then on the costs, for each day he may labor. Such Commissioners' Court may provide such reasonable regulations and punishments as may be necessary to require such convicts to perform good work, and provide a reward, not exceeding ten dollars, to be paid out of the road and bridge fund, for the recapture and delivery of any escaped convict, to be paid to any person

other than the guard or person in charge of such [convict] at the time of his escape, which reward shall be taxed against such convict, and worked out or paid by him as a part of the costs. The Commissioners' Court may grant a reasonable commutation of time for which a convict is committed, as a reward for faithful services and good behavior, in no case to exceed one-tenth of the whole time. Said court may provide the necessary houses, prisoners' clothing, bedding, food, medicine, medical attention and guards for the safe and humane keeping of convicts. The officers and witnesses shall receive such amount of their costs for the arrest and conviction of said convicts as is now allowed, or may hereafter be allowed by general law, which amount shall be paid out of the road and bridge fund on the warrant of the County Judge, as is provided by law, when said fine and costs have been worked out, as provided for in this section; provided, that this shall not be construed so as to relieve any convict from the payment of all costs for which he would be liable under the general laws of this State.

Sec. 4. Each County Commissioner shall have control of all road overseers in his district, and shall deliver to each of them all teams, tools and machinery necessary in working the road in the district of said overseer, so far as has been supplied therewith by the Commissioners' Court, taking receipt of said overseer therefor, specifying each item, and giving its value, which receipt shall be a full answer of the liability of the commissioner, and shall fix the liability of the overseer; and any commissioner or overseer who shall have been entrusted with any teams, tools or machinery belonging to said county, shall be liable for any damages that may occur to the same while in his possession, caused by his negligence or want of due care of same, and shall not use or permit the same to be used for private purposes without the consent of the Commissioners' Court. It shall be the duty of the road overseer, when he has finished work on his roads, to return to said commissioners all teams, tools and machinery received from him, and take up the receipt given therefor.

Sec. 5. It shall be the duty of the County Commissioners when acting as Road Commissioner, to inform himself of the condition of the public roads of his district, and shall determine what character of work shall be done upon said roads, and shall direct the manner of grading, draining or otherwise improving the same, which direction shall be observed and obeyed by all road overseers of his district.

Sec. 6. The road commissioners may require each road overseer in his district to call out the hands in such numbers as may be sufficient to perform the work, but no road hand shall be required to work exceeding five days in any one year, or two and one-half days with himself and team, unless the term of service as prescribed by the general laws shall be extended beyond that time. And provided, that all road hands in any particular district shall, as far as practicable, be worked a uniform time. Each road overseer, or in case of his absence, any person deputized by him, shall have full control of all road hands within his road district, and shall see that each hand, when called out, shall perform a good day's work; if any hand, when so called out, shall fail or refuse to perform a good day's work, or to work in the manner the overseer may direct, he shall be liable to the same penalty as if he had failed to appear in obedience to the summons. The Commissioners' Court may allow any over-

seer who shall be engaged in the discharge of the duties of his office for more than five days during any one year, a compensation not to exceed one dollar and fifty cents per day for the time so served; provided, no road overseer shall receive pay for extra time, unless labor performed by him be done upon the written order of his road commissioner.

Sec. 7. Any citizen of Ellis County liable for road duty, who shall, on or before the first day of January of each year, pay to the County Treasurer the sum of three dollars, shall be exempt from road duty for such year, beginning on the first day of January. The Treasurer shall receive and receipt for all money so paid him and place the same to the credit of the road and bridge fund, and keep a separate account for each road district for which it is received. The Treasurer shall, on the third day of January, or as soon thereafter as practical, furnish to each county commissioner a list of all persons in their respective districts that have paid said sum as provided in this section.

Sec. 8. Every person liable to work on roads, by paying to his overseer at any time before the day appointed to work on his road, the sum of one dollar for each day he is summoned to work, and one dollar for each day he is summoned to furnish his team for road work, shall be exempt from working or furnishing his team for each day paid for, and also exempt from any penalties for failure to work or furnish such teams for the time for which he had so paid.

Sec. 9. Each person summoned to work on a road shall take with him an axe, hoe, pick, spade, plow, scraper, or such other tool as may be desired and directed by the overseer, or if he has no such tools as are desired and directed by the overseer to take with him, he shall take such other suitable tool as he may have; provided, the county shall be liable for, and the Commissioners' Court, under such regulations as they may prescribe, shall pay for all such breakage or damage to such tools as may have resulted from public road work, and not caused by the negligence of the person furnishing the same. Such overseer may also summons and require such road hand to bring with him for public road work, such team or teams as he may have on hand suitable for road work. Provided, such hand shall be allowed two days' time for each day put in by a hand with his team, and one day's time for his team without such hand.

Sec. 10. If any person, liable to work upon the public roads, after being legally summoned, shall fail or refuse to attend either in person or by able and competent substitute, or fail or refuse to furnish his team or tools at the time and place designated by the person summoning him, or to pay to such overseer the sum of one dollar for each day he may have been notified to work on the road, or to pay to such overseer the sum of one dollar for each day he may have been notified to furnish his team for road work, or having attended, shall fail to perform good service, or any other duty required of him by law, or the person under whom he may work, shall be deemed guilty of a misdemeanor, and upon conviction thereof fined in any sum not exceeding ten dollars.

Sec. 11. At the regular term of the Commissioners' Court in February of each year, all road overseers shall make their reports under oath, upon forms to be furnished by said court, which said report shall be examined by said court, and all accounts for services or labor performed for overwork by such overseer during the past year, and of moneys had

and expended by him, shall be audited and settled; and as soon thereafter as practicable, said Commissioners' Court shall appoint and commission road overseers for the succeeding year. Any overseer failing to perform his duties as such overseer, or failing or refusing to make his report as required by law, or failing or refusing to serve and perform his duties of overseer, when appointed by said court, or to perform any other duties required of him by law, or by the Commissioners' Court, or by the Commissioner of his district, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not exceeding twenty-five dollars.

Sec. 12. Whenever it shall be necessary to occupy any land for the opening, widening, straightening or draining any road or part thereof, if the owner of said land and the Commissioners' Court can not agree upon the damage to be paid, the county may proceed to condemn the same in the same manner that a railroad company can condemn land for right-of-way, and the same proceedings may be had and the same right shall exist to each party as would exist if proceedings were by a railroad company, except that the county shall in no case be required to give bond.

Sec. 13. Every owner of a farm or other lands upon which a hedge of any description grows on or near the public road, shall be required to keep same trimmed so that the same shall never be higher than eight feet, and shall not obstruct said road; and any such owner who shall fail or neglect to so trim such hedge shall be notified in writing by the road commissioner of his district to trim such hedge, as herein required, and in such case, if such owner shall, after receiving such notice, fail or refuse to trim such hedge, within thirty days after notice, he shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not exceeding twenty dollars per week, and each week he shall so fail or refuse shall constitute a separate offense, from and after the expiration of thirty days from the time that he received such notice; such fines to be paid into the county treasury and to be placed to the credit of the road and bridge fund of said county. If any owner of any farm shall fail or refuse, after being notified as herein required, to trim his hedge, as required by this act, then the road commissioner shall cause the same to be trimmed in accordance with this act, to be paid for out of the road and bridge fund of the county.

Sec. 14. Each County Commissioner when acting as road commissioner, and performing the duties imposed upon him by law, or by the Commissioners' Court shall be entitled to two and one half dollars per day for the services actually performed; provided, said sum to be paid him shall not exceed fifty dollars per quarter, which amount shall be paid out of the road and bridge fund when the account shall have been approved by the Commissioners' Court; and the court shall not approve said account unless the commissioner presenting it shall sign an oath that the account is just, due and unpaid, and specifying the number of days [work] actually performed by him, and that it was necessary to be done; and that no commissioner shall be entitled to pay as road commissioner, either for himself or for his deputy, while he is performing the duties of county commissioner; nor shall he receive any additional pay other than provided by this section, for inspecting or riding over his road, or for other road services.

Sec. 15. This act shall be taken notice of by all courts in the same manner as the general law of the State, and it shall be construed to be cumulative of all general laws of the State on the subject of roads and bridges when not in conflict therewith, but in case of conflict, this act shall control as to the County of Ellis.

Sec. 16. The crowded condition of the calendar, and the urgent need for a better road system in Ellis County, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act passed the Senate by a two-thirds vote, yeas 21, nays none; and passed the House, vote not given.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Tuesday, the twenty-seventh day of April, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

S. B. No. 300.]

CHAPTER 111.

An Act to diminish the civil and criminal jurisdiction of the county court of King and Stonewall counties; to conform the jurisdiction of the district court thereto, and to repeal all laws in conflict herewith.

Section 1. Be it enacted by the Legislature of the State of Texas: That the county court of King and Stonewall counties shall have and exercise the general jurisdiction of a probate court; shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards; grant letters testamentary and of administration, settle accounts of executors, administrators and guardians, transact all business appertaining to the estates of deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the partition, settlement, and distribution of estates of deceased persons, and to apprentice minors, as provided by law, and to issue all writs necessary for the enforcement of its own jurisdiction; to punish contempt, under such provisions as are or may be provided by general law governing county courts throughout the State, but the said county court of King and Stonewall counties shall have no other jurisdiction, civil or criminal, whatsoever.

Sec. 2. That the district court of King and Stonewall counties shall have and exercise jurisdiction in all civil and criminal matters and causes over which, by the laws of this State, the county courts of said counties would have jurisdiction, except as provided in Section 1 of this act; all causes other than probate matters, and such as are provided by Section 1 of this act, be and the same are hereby transferred to the district courts of King and Stonewall counties, and all writs and processes relating to any civil or criminal matters not included in the subject matters of jurisdiction prescribed in Section 1 of this act, issued by or out of said county courts of King and Stonewall counties, be and the same are hereby made

returnable to the next term of the district courts of said counties after this act takes effect.

Sec. 3. That the county clerks of King and Stonewall counties be, and are hereby required, within thirty days after this act takes effect, to make a full and complete transcript of all entries upon their civil and criminal dockets heretofore made in cases which, by Section 2 of this act, are required to be transferred to the district courts of said counties, together with all the papers to such causes pertaining, and a certified bill of costs in each case, and all such causes shall be immediately docketed by said district clerks; and such civil cases so transferred shall stand on the dockets of said courts as appearance cases for the next succeeding terms, and all criminal cases shall be docketed and disposed of in the same manner as if the same had been originally triable in said district courts, and all process now issued and returnable to said county courts shall be returnable to said district courts.

Sec. 4. That this act shall not be construed to in any manner affect judgments heretofore rendered by said county courts of King and Stonewall counties pertaining to matters and causes which, by Section 2 of this act, are transferred to the district courts of said counties, but the county clerks of said counties shall issue all executions and orders of sale, and proceedings thereunder shall be as valid and binding, to all intents and purposes, as though the change had not been made as by Section 2 therein contemplated.

Sec. 5. That all laws and parts of laws in conflict herewith be and the same are hereby repealed.

Sec. 6. Owing to the great inconvenience caused the people of King and Stonewall counties, and the almost unanimous demand by the citizens of said counties that said jurisdiction be diminished, an emergency is created and an imperative public necessity requires the suspension of the constitutional rule requiring bills to be read on three several days; said rule is therefore suspended, and this act shall take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act passed the Senate by a two-thirds vote, yeas 22, nays none; and passed the House, vote not given.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Tuesday, the twenty-seventh day of April, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

S. B. No. 212.]

CHAPTER 112.

An Act to provide a penalty for the failure or refusal of any president, vice-president or cashier of a national bank to furnish the tax assessor or deputy tax assessor a correct statement of the assets and liabilities of the national bank of which such person is president, vice-president or cashier.

Section 1. Be it enacted by the Legislature of the State of Texas: That if any president, vice president, or cashier of any national bank shall fail or refuse to furnish the tax assessor or deputy tax assessor, when called upon to do so by such tax assessor or deputy tax assessor, a sworn statement, showing:

1. A list of the names of all the shareholders of the stock of such national bank.

2. The number and amount of the shares owned and held by each shareholder of stock in such national bank.

3. The place of residence of each stockholder in such bank, if known. (If not known, that fact shall be so stated.)

4. The amount or amounts of notes issued by such national bank and circulating as money, or that is intended to circulate as money; (stating such amounts in dollars.)

5. The amount of money on hand or in transit, or in the hands of other banks, bankers, brokers or others, subject to draft, whether the same be in or out of the State.

6. The amount of indebtedness of such bank and how such indebtedness is evidenced.

7. The amount of paper evidencing indebtedness owned by such bank, which was acquired by such bank either at par or at a discount.

Any such president, vice-president, or cashier of a "national bank" so failing or refusing to furnish such statement, as above required, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than one hundred dollars, nor more than one thousand dollars, and by confinement in jail not less than ten days, nor more than thirty days.

Sec. 2. By the term money and notes, mentioned in the preceding article, is meant all money owned and on hand by such bank, whether on deposit or otherwise.

Sec. 3. The fact that a large portion of the assets of national banks is not being rendered for taxation creates an emergency and an imperative necessity that the constitutional rule requiring bills of be read on three several days be suspended and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved, May 11, 1897.

[Note.—The foregoing act passed the Senate by a two-thirds vote, yeas 21, nays none; and passed the House by a two-thirds vote, yeas 89, nays 2.]

S. B. No. 354.]

CHAPTER 113.

An Act to validate the incorporation and to declare valid the acts of towns and villages heretofore regularly incorporated for free school purposes, having within their limits towns incorporated for municipal purposes, which latter had ceased to exercise their functions as such, or which had not assumed control of the public schools within their limits, and to provide that such towns and villages incorporated for free school purposes shall have exclusive control of the public free schools within their limits, and to repeal all laws in conflict.

Section 1. Be it enacted by the Legislature of the State of Texas: All towns and villages within the State heretofore regularly incorporated for free school purposes, and which embrace within their incorporated territory towns heretofore incorporated for municipal purposes, which latter had ceased to exercise the functions of a municipal corporation, or which had not assumed control of the public schools within their limits when the former was incorporated, are hereby declared valid and lawful incorporations for free school purposes from the date of their incorporation, and all acts of any such town or village incorporated for free school purposes, heretofore done or hereafter to be done, shall have the same force and effect as the acts of a valid and lawful incorporation for such purpose.

Sec. 2. All such towns and villages shall have exclusive control of the public free schools within their limits.

Sec. 3. All laws and parts of laws in conflict with the provisions of this act are hereby repealed.

Sec. 4. The near approach of the close of the session, and the fact that many incorporations for free school purposes are being questioned and endangered, to the injury of our free school system, create an imperative public necessity, demanding that the constitutional rule requiring bills to be read on three several days be suspended, and it is so enacted, and also, such facts create an emergency requiring that the bill take effect from and after its passage, and it is so enacted.

[Note.—The foregoing act passed the Senate by a two-thirds vote, yeas 21, nays, none; and passed the House by a two-thirds vote, yeas 93, nays 1.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Friday, the thirtieth day of April, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

S. B. No. 312.]

CHAPTER 114.

An Act to amend Article 397, Chapter 2, Title 18, of the Revised Civil Statutes of the State of Texas, relating to cities and towns, and the election of its officers.

Section 1. Be it enacted by the Legislature of the State of Texas: That Article 397, Chapter 2, Title 18, of the Revised Civil Statutes of the State of Texas, be so amended as to hereafter read as follows:

Article 397. Whenever a vacancy occurs by resignation or otherwise in the municipal offices of any incorporated town or city in this State so that the vacancy can not be filled under the charter of said town or city or under the laws of this State now in force, then and in that event it shall be the duty of the commissioners' court of said county in which said town or city is situated, upon a petition of not less than 20 tax paying voters living in said city, to order an election to be held to fill such vacancy, giving notice of not less than ten days in the usual manner provided for such elections; provided, where such town or city has been chartered by special act of the legislature and such town or city contains more than 200 and less than 5000 inhabitants and the offices of such town or city have been vacant for a period of ten years or more, such charter of said town or city shall become void and forfeited, and no election of officers in such town or city shall be had; but the inhabitants of such town or city may reincorporate under the general laws of this State relating to towns and cities in the manner as now or may hereafter be prescribed by the laws of this State.

Sec. 2. The great amount of business before the legislature rendering it impossible that this bill can be read on three several days, and the near approach of the close of the session, and that there now exist in the State several towns and cities chartered by special acts of the legislature that have become dormant by reason of a failure to elect officers, and their special charters having been lost and copies thereof can not be had, there exists an imperative public necessity and emergency requiring that the constitutional rule that bills be read on three several days in each house be suspended and that this bill be passed and take effect from and after its passage.

[Note.—The foregoing act passed the Senate by a two-thirds vote, yeas 23, nays none; and passed the House by a two-thirds vote, yeas 95, nays none.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Friday, the thirtieth day of April, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

H. B. No. 13.]

CHAPTER 115.

An Act to validate certain illegal sales of Public School, University and Asylum lands, sold under Section 22, Chapter 99, of the Acts of 1887, and the amendments thereto, sold as isolated and detached lands, which were not in fact isolated and detached.

Section 1. Be it enacted by the Legislature of the State of Texas: That all sales of Public School, University, and the several asylum lands which were sold as isolated and detached lands under Section 22, Chapter 99 of the acts of the Legislature of the State of Texas, of 1887, and amendments thereto, which were in fact not isolated and detached, as construed by the Supreme Court, where the original sales have not been cancelled and the lands resold, be and the same are in all things hereby legalized and made valid in all cases where such sales would have been valid if the lands so sold had in fact been isolated and detached; provided, that when applications have been made for the purchase of any such lands, in advance of placing of the same on the market again, it shall not have the effect of a sale of such lands, nor of requiring the Commissioner of the General Land Office to award such lands to such applicants.

Sec. 2. The fact that a large number of sections of land, referred to in this act, have been sold, and the purchasers thereof are greatly embarrassed by reason of the illegality in such sales, and the State is suffering a loss of revenue thereby, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and said rule is hereby suspended, and it is so enacted.

Approved, May 13th, 1897.

Takes effect 90 days after adjournment.

H. B. No. 79.]

CHAPTER 116.

An Act to prevent immoral publications, and to prevent the sale and distribution of such publications, making a violation thereof a felony, prescribing a penalty therefor, and declaring an emergency.

Section 1. Be it enacted by the Legislature of the State of Texas: Every person or persons who shall, within this State, engage in the business of editing, publishing, or disseminating any newspaper, pamphlet, magazine, or any printed paper, devoted mainly to the publication of scandals, whoring, lechery, assignations, intrigues between men and women, and immoral conduct of persons; or any person or persons who shall knowingly have in his or her possession for sale, or shall keep for sale, or distribute, or in any way assist in the sale, or shall gratuitously distribute, or give away, any such newspaper, pamphlet, magazine, or printed paper, in this State, shall be deemed guilty of a felony, and on conviction thereof, shall be punished by imprisonment in the penitentiary for a term of not less than two nor more than five years.

Sec. 2. That all laws and parts of laws in conflict with this act be and the same are hereby repealed.

Approved, May 13, 1897.

Takes effect ninety days after adjournment.

S. B. No. 345.]

CHAPTER 117.

An Act to further amend Section 2 of an act entitled An act to reorganize the Fifteenth Judicial District and the Fortieth Judicial District, and to amend Chapter 67, Section 15, of the General Laws of Texas, approved April 9th, 1883, redistricting the State for Judicial purposes, and to amend Section 2 of Chapter 58, of the General Laws of Texas, approved March 27th, 1885, creating the Fortieth District, and to repeal all laws in conflict with this act, approved March 21st, 1893, as amended by an act entitled An act to amend Section 2 of an act to be entitled An act to reorganize the Fifteenth Judicial District and the Fortieth Judicial District and to amend Chapter 67, Section 15, of the General Laws of Texas, approved April 9th, 1883, redistricting the State for Judicial purposes, and to amend Section 2, Chapter 58, of the General Laws of Texas, approved March 27th, 1885, creating the Fortieth Judicial District, and to repeal all laws in conflict with this act, passed at the present session of the Legislature, and to further regulate and fix the times of holding Courts in the Fortieth Judicial District, and to repeal all laws in conflict herewith.

Section 1. Be it enacted by the Legislature of the State of Texas: That Section 2 of the first above recited act, as amended by the second above recited act, be so further amended that the same shall hereafter read as follows:

Section 2. The Fortieth Judicial District shall be composed of the counties of Collin, Ellis, Kaufman and Rockwall, and the terms of the District Courts within and for said counties shall be held each year as follows:

Beginning in Kaufman County on the first Monday in September and lasting five weeks.

Beginning in Collin County on the sixth Monday after the first Monday in September and lasting six weeks.

Beginning in Rockwall County on the fourth Monday in November and lasting two weeks.

Beginning in Ellis County on the second Monday in December and lasting until the first Monday in February following, if the business requires.

Beginning in Kaufman County on the first Monday in February and lasting five weeks.

Beginning in Collin County on the sixth Monday after the first Monday in February and lasting six weeks.

Beginning in Rockwall County on the first Monday in May and lasting two weeks.

Beginning in Ellis County on the third Monday in May and may continue in session nine weeks; provided, that nothing herein contained shall in any manner affect any term of court which may be in session when this act takes effect.

Sec. 2. Be it further enacted, That all laws in conflict herewith be and the same are hereby repealed.

Sec. 3. The near approach of the end of this session of the Legislature and the fact that the time now fixed and limited by law for holding courts in some of the counties of the Fortieth Judicial District is insufficient for the transaction of the business of the courts in the counties affected by this act, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and it is so suspended, and that this act go into effect from and after its passage and it is so enacted.

[Note.—The foregoing act passed the Senate by a two-thirds vote, yeas 22, nays none; and passed the House, vote not given.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Tuesday, the fourth day of May, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Mad-den, Secretary of State.]

S. B. No. 341.]

CHAPTER 118.

An Act to create a more efficient road system for Milam County, Texas, and making county commissioners of said county ex officio road commissioners, and prescribing their duties as such, and providing for their compensation as road commissioners, and defining the powers and duties of such county commissioners, and providing for the appointment of road overseers, and defining their duties, and for the working of county convicts on the public roads of said county, and providing for officers' fees, and rewards and penalties for said convicts, and rewards for the capture of escaped convicts, and to provide for the manner and training and maintaining hedges along all public roads, and to provide for the summoning of teams for road work, and for an allowance for time of road service for the same, and fixing a penalty for a violation of this act, and to repeal all laws in conflict herewith.

Section 1. Be it enacted by the Legislature of the State of Texas: That the members of the commissioners' court of Milam county shall be ex officio road commissioners of their respective districts, and under the direction of the commissioners' court shall have charge of all teams, tools, and machinery belonging to the county and placed in their hands by said county, and it shall be their duty under such rules and regulations as the commissioners' court may prescribe, to superintend the laying out of new roads, and the building of bridges. Each of said commissioners shall, before entering upon the duties of his office, in addition to his regular bond as such county commissioner, execute a bond of one thousand dollars, with two or more good and sufficient sureties, payable to the county judge of said county for the use and benefit of the road and bridge fund, conditioned that they will perform all the duties required of them by law, or by the commissioners' court and that they will account for all the money or property belonging to the county that may come into their possession.

Sec. 2. The commissioners' court of said county shall have full power and authority, and it shall be its duty to adopt such system of working, laying out, draining and repairing the public roads in said county as it may deem best, and from time to time said court may change its plan or

system of working. Said commissioners' court shall have power to purchase such teams, tools and machinery as may be necessary for the working of its roads. Said court shall have power to construct, grade, or otherwise improve any road or bridge, by contract. In such case said court, if they deem it necessary, or the county judge, may advertise in such manner as the court may determine, for bids to do such work, and the contract shall be awarded to the lowest responsible bidder, who shall enter into bond, payable to the county judge of said county for the use of the road and bridge fund, with good and sufficient sureties, to be approved by said court, and in such sum as said court may determine, for the faithful compliance with the terms of said contract; but said court shall have the right to reject any and all bids. The said court shall have authority to employ any hands or teams to work on the roads, under such regulations and for such price as they may deem best.

Sec. 3. The commissioners' court of said county shall require all county convicts not otherwise employed, to labor upon the public roads, under such regulations as they may prescribe, and each convict so worked shall receive a credit of fifty cents on his fine and cost for each day he may so labor. Such commissioners' court may provide such reasonable regulations and punishments as may be necessary to require such convicts to perform good work, and may provide a reward, not exceeding ten dollars, to be paid out of the road and bridge fund, for the recapture and delivery of any escaped convict, to be paid to any person other than the guard or person in charge of such convict at the time of his escape, (which reward shall be taxed against such convict and worked out or paid by him as a part of the cost.) The commissioners may grant a reasonable commutation of time for which a convict is committed as a reward for faithful services and good behavior, in no case to exceed one-tenth of the whole time. Said court may provide the necessary houses, prisons, clothing, bedding, food, medicine, medical attention, and guards for the safe and humane keeping of convicts. The commissioners' court may at a regular term allow to the officers such amount of their costs for the arrest and conviction of said convict as it may deem best; provided, that it shall not allow to any officer a greater amount than he is now or may hereafter be allowed by general laws; provided, that this shall not be construed as to relieve any convict from the payment of all costs for which he would be liable under the general laws of this State.

Sec. 4. Each county commissioner shall have control of all road overseers in his district, and shall deliver to each of them all tools and machinery necessary in working the roads in the district of said overseer, so far as he has been supplied therewith by the commissioners' court, taking receipt of said overseer therefor, specifying each item, and giving its value, which receipt shall be a full answer of the liability of the commissioner, and shall fix the liability of the overseer; and any commissioner or overseer who shall have been entrusted with any teams, tools or machinery belonging to said county shall be liable for any damage that may occur to the same while in his possession caused by his negligence or want of due care of same, and shall not use or permit the same to be used for private purposes without the consent of the commissioners' court. It shall be the duty of the road overseer when he has finished work on his roads, to return to said commissioner all tools and machinery received from him and take up the receipt taken therefor.

Sec. 5. It shall be the duty of the county commissioner when acting as road overseer to inform himself of the condition of the public roads of his district, and shall determine what character of work shall be done upon said roads, and shall direct the manner of grading, draining, or otherwise improving the same, which direction shall be observed and obeyed by all road overseers of his district.

Sec. 6. The commissioners may require of each road overseer in his district to call out the hands in such numbers as may be sufficient to perform the work, but no road hand shall be required to work exceeding five days in any one year, or two days with himself and team, unless the term of service, as prescribed by the general laws, shall be extended beyond that time; and provided, that all road hands in any particular district shall, as far as practicable, be worked a uniform time. Each road overseer, or in case of his absence, any person deputized by him, shall have full control of all road hands within his road district, and shall see that each hand, when called out, shall perform a good day's work; and if any hand, when so called out, shall fail or refuse to perform a good day's work, or to work in the manner the road overseer may direct, shall be liable to the same penalty as if he had failed to appear in obedience to the summons.

Sec. 7. Any citizen of Milam county liable for road duty who shall, on or before the first day of February of each year, pay to the county treasurer the sum of three dollars, shall be exempt from all road duty for such year, beginning on the first day of February. The treasurer shall receive and receipt for all money so paid him, and shall place the same to the credit of the road and bridge fund. The treasurer shall, on the third day of February, or as soon thereafter as practicable, furnish to each county commissioner a list of all persons in their respective districts that have paid said sum as provided in this section.

Sec. 8. Every person liable to work on roads, by paying his road overseer at any time before the day appointed to work on his road the sum of one dollar for each day he is summoned to work and one dollar and fifty cents for each day that he is summoned to furnish his team for road work shall be exempt from working or furnishing his team for each day paid for, and also be exempt from any penalties for failure to work or furnish such team for the time for which he has so paid.

Sec. 9. Each person summoned to work on a road shall take with him an axe, hoe, pick, spade, plow, scraper, or such other tool as may be desired and directed by the overseer, or if he has no such tools as are desired by the overseer to take with him, he shall take such other suitable tool as he may have; provided, the county shall be liable for, and the commissioners' court, under such regulations as they may prescribe, shall pay for all such breakage or damage to such tools as may have resulted from public road work, and not caused by the negligence of the person furnishing the same. Such overseer may also summon and require such road hand to bring with him for public road work such team or teams as he may have on hand suitable for road work; provided, such hand shall be allowed two and one-half days' time for each day put in by a hand with his team, and one and one-half days' time for his team without such hand.

Sec. 10. If any person liable to work upon the public roads, after being legally summoned, shall intentionally fail or refuse to attend, either in person or by an able and competent substitute, or fail or refuse to fur-

nish his team or tools at the time and place designated by the person summoning him, or to pay to such overseer the sum of one dollar for each day he may have been notified to work on the road, or to pay such overseer the sum of one dollar and fifty cents for each day he may have been notified to furnish his team for road work, or, having attended, shall fail to perform such good service or any other duty required of him by law or the person under whom he may work, shall be deemed guilty of a misdemeanor, and on conviction thereof, fined in any sum not exceeding ten dollars.

Sec. 11. At the regular term of the commissioners' court in February of each year, all road overseers shall make their reports under oath, upon forms to be furnished them by said court, which said report shall be examined by said court, and all accounts of moneys had and expended by him shall be audited and settled; and as soon thereafter as practicable, said commissioners' court shall appoint and commission road overseers for the succeeding year; and in the event of the death, refusal or inability to act on the part of any road overseer so appointed, the county commissioner of the precinct shall have authority to fill the vacancy, and report his action in writing to the county clerk, who shall record the same in the minutes of the commissioners' court, either in term time or in vacation. Any overseer intentionally failing to perform his duties as such overseer, or failing or refusing to make his report as required by law, or failing or refusing to serve and perform the duties of overseer when appointed by said court, or to perform any other duty required of him by law, or by the commissioners' court, or by the commissioner of his district, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not exceeding twenty-five dollars.

Sec. 12. Whenever it shall be necessary to occupy any land for opening, widening, straightening, or draining any road or part thereof, if the owner of such land and the commissioners' court can not agree upon the damage to be paid, the county may proceed to condemn the same in the manner that a railroad company may condemn land for right of way, and the same proceedings may be had and the same right shall exist to such party as would exist if the proceedings were by a railroad company, except that the county shall in no case be required to give bond; provided, that nothing contained in this section shall be held to repeal the provisions of the general law relating to the opening of public roads by juries of view, but this section shall be cumulative thereof, and the commissioners' court of Milam county may act under such general law, or the provisions of this section, at their option in such case.

Sec. 13. Every owner of a farm or other land upon which a hedge of any description grows on or near the public road, shall be required to keep the same trimmed so that the same shall not obstruct said road and shall not be of greater height than eight feet, and any such owner who shall fail or neglect to trim such hedge, shall be notified in writing by the road overseer of that district to trim such hedge as herein required; and in such case if such owner shall, after receiving such notice, fail or refuse to trim such hedge within a reasonable time, he shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not exceeding twenty dollars per week from and after the time that he receives such notice, such fine to be paid into the county treasury and be placed to the credit of the road and bridge fund of said county. If any owner

of any farm shall fail or refuse, after being notified as herein required, to trim his hedge, as required by this act, then the road overseer, upon an order from the county commissioner of his precinct, shall cause the same to be trimmed in accordance with the provisions of this act, to be paid for out of the road and bridge fund of the county.

Sec. 14. Each county commissioner when acting as road commissioner and performing the duties imposed upon him by law or by the commissioners' court, shall be entitled to three dollars per day for the services actually performed; provided, that he shall not draw such pay for more than thirty-five days per quarter, which amount shall be paid out of the road and bridge fund when the account shall have been approved by the commissioners' court; and the court shall not approve said account unless the commissioner presenting it shall sign an oath the account is just, due and unpaid, and specifying the number of [days' work] actually performed by him, and that it was necessary to be done; and no commissioner shall be entitled to pay as road commissioner while he is performing the duties of county commissioner, nor shall he receive any additional pay than that provided by this section for inspecting or riding over his road, or for other road service.

Sec. 15. This act shall be taken notice of by all courts, in the same manner as the general law of the State, and it shall be construed to be cumulative of all general laws of the State on the subject of roads and bridges when not in conflict therewith, but in case of conflict this act shall control as to the county of Milam, except where otherwise provided herein.

Sec. 16. The fact that there is now no sufficient general road law in force in this State creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act passed the Senate by a two-thirds vote, yeas 21, nays none; and passed the House, vote not given.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Tuesday, the fourth day of May, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

S. B. No. 216.]

CHAPTER 119.

An Act to amend Article 745 of the Revised Civil Statutes of the State of Texas, requiring foreign corporations to file their articles of incorporation with the Secretary of State, and imposing certain conditions upon said corporations transacting business in this State, and authorizing the Secretary of State to issue permits to such corporations.

Section 1. Be it enacted by the Legislature of the State of Texas: That Article 745 of the Revised Civil Statutes of the State of Texas be so amended as to hereafter read as follows:

Article 745. Hereafter, any corporation for pecuniary profit, except as hereinafter provided, organized or created under the laws of any other State, or of any Territory of the United States, or of any municipality of such State or Territory, or of any foreign government, sovereignty or municipality, desiring to transact business in this State, or solicit business in this State, or establish a general or special office in this State, shall be and the same is hereby required to file with the secretary of state a duly certified copy of its articles of incorporation, and thereupon the secretary of state shall issue to such corporation a permit to transact business in this State. If such corporation is created for more than one purpose, the permit may be limited to one or more purposes; and such corporation on obtaining such permit shall have and enjoy all the rights and privileges conferred by the laws of this State on corporations organized under the laws of this State, and shall be authorized and empowered to hold, purchase, sell, mortgage, or otherwise convey such real estate and personal estate as the purposes of such corporation may require, and also, to take, hold and convey such other property, real, personal or mixed, as may be requisite for such corporation to acquire in order to obtain or secure the payment of any indebtedness or liability due, or which may become due, or belonging to the corporation; provided, that if such corporation so obtaining a permit to do business in this State, shall acquire any real estate under the powers herein conferred, it shall alienate all real property so acquired by it not necessary for the purposes of such corporation, within fifteen years from the time of acquisition; and provided, further, that such corporation shall alienate all real estate acquired by it for the purposes of such corporation, within fifteen years from the expiration of the time for which the permit it issued, or if such permit be renewed, or such corporation be otherwise authorized to carry on business in this State, then such corporation shall alienate such real estate within fifteen years after the expiration of the time for which such permit is extended, or it is so authorized to carry on business in this State; and provided, further, that if such corporation shall cease to carry on business in this State, that it shall alienate all such real estate so acquired by it, within fifteen years after the time it shall so cease to carry on business in this State.

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Tuesday, the fourth day of May, A. D. 1897, but was not signed by him nor returned to the House in which it originated with his objections thereto within the time prescribed by the Constitu-

tion, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

Takes effect 90 days after adjournment.

H. R. No. 710.]

CHAPTER 120.

An Act to amend Articles 5243i, 5243j, and 5243k, of an act entitled, "An act to amend Articles 5243e, 5243i, 5342j and 5342k, of Chapter 9, Title 104, of the Revised Civil Statutes, relating to the taxation of insurance, telephone, sleeping and dining car and other corporations, and to provide for forfeiting the charters of domestic corporations and permits of foreign corporations to do business in this State for failure to pay the franchise tax levied by this act, and to define and prescribe the notice to be given to said corporations previous to such forfeiture, and to provide adequate penalties for a violation of this act," passed at the present session and approved April 30th, 1897.

Section 1. Be it enacted by the Legislature of the State of Texas: That Articles 5243i, 5243j, and 5243k, of an act entitled, "An act to amend Articles 5243e, 5243i, 5243j, and 5243k, of Chapter 9, Title 104, of the Revised Civil Statutes, relating to the taxation of insurance, telephone, sleeping and dining car and other corporations, and to provide for forfeiting the charters of domestic corporations and permits of foreign corporations to do business in this State for failure to pay the franchise tax levied by this act, and to define and describe the notice to be given to said corporations previous to such forfeiture, and to provide adequate penalties for a violation of this act," passed at the present session and approved April 30th, 1897, be and the same is hereby amended so as hereafter to read as follows:

Article 5243i. Each and every private domestic corporation heretofore chartered under the laws of this State shall pay to the Secretary of State an annual franchise tax of ten dollars on or before the first day of May of each year; and every such corporation which shall be hereafter chartered under the laws of this State shall also pay to the Secretary of State an annual franchise tax of ten dollars, the tax for the first year to be paid at the time such charter is filed and the Secretary of State shall not be required or permitted to file such charter until such tax is paid, and each succeeding tax shall be paid on or before the first day of May of each year thereafter; provided, that any such corporation having an authorized capital stock of over fifty thousand dollars and less than a hundred thousand dollars, shall pay an annual franchise tax of twenty dollars; and every such corporation having an authorized capital stock of one hundred thousand dollars and less than two hundred thousand dollars, shall pay an annual franchise tax of thirty dollars; and every such corporation having an authorized capital stock of two hundred thousand dollars or more shall pay an annual franchise tax of fifty dollars. Each and every foreign corporation heretofore authorized to do business in this State under the laws of this State shall, on or before the first day of May of each year, and each and every such corporation which shall hereafter be so authorized to do business in this State, shall, at the time so authorized, and on or before the first day of May of each year thereafter, pay to the Secretary of State the following franchise tax:

Every such corporation having an authorized capital stock of twenty-five thousand dollars or less, an annual franchise tax of twenty-five dollars; every such corporation having an authorized capital stock of more than twenty-five thousand dollars and not exceeding one hundred thousand dollars, an annual franchise tax of one hundred dollars; every such corporation having an authorized capital stock of over one hundred thousand dollars, an annual franchise tax of one hundred dollars, and in addition thereto an annual franchise tax of one dollar for every ten thousand dollars of authorized capital stock over and above one hundred thousand dollars and not exceeding one million dollars; and if such authorized capital stock exceeds one million dollars, then such corporation shall pay a still further additional tax of one dollar for every one hundred thousand dollars over and above one million dollars. Any corporation, either domestic or foreign, which shall fail to pay the tax provided for in this article at the time specified herein, shall, because of such failure, forfeit its right to do business in this State, which forfeiture shall be consummated without judicial ascertainment, by the Secretary of State entering upon the margin of the ledger kept in his office relating to such corporations, the word, "Forfeited," giving the date of such forfeiture, and any corporation whose right to do business may be thus forfeited shall be denied the right to sue or defend in any of the courts of this State, and in any suit against such corporation on a cause of action arising before such forfeiture, no affirmative relief may be granted to such defendant corporation, unless its right to do business is revived as provided in Article 5243j of this act. All transportation companies now paying an annual income tax on their gross receipts in this State shall be exempted from the franchise tax above imposed.

Article 5243j. The Secretary of State shall on or before the 1st day of March of each year, notify all private domestic and foreign corporations subject to a franchise tax by any law of this State, by mailing to the postoffice named as the principal place of business of such corporation in its articles of incorporation, or to any other place of business of such corporation, addressed in its corporate name, a written or printed notice that such tax will be due at a date named therein, a record of the date of which mailing must be kept by said officer, and which mailing of such notice and the said record thereof shall constitute legal and sufficient notice for all the purposes of this act; and in thirty days after the 1st day of May of each year, said officer shall publish for ten consecutive days in some daily newspaper published in this State, a list of the corporations whose right to do business in this State has been forfeited for non-compliance with this act; provided, that any corporation which shall within six months after such publication pay the tax and (\$5) five dollars additional thereto, for each month or fractional part of a month which shall elapse after such forfeiture, shall be relieved from the forfeiture of its right to do business by reason of such failure, and when such tax and the said penalty are fully paid to the Secretary of State, it shall be the duty of said officer to revive and reinstate said right to do business by erasing or cancelling the word "Forfeited" from his ledger, and substituting therefor the word "Revived," giving the date of such revival; provided, further, that this chapter shall not be construed to repeal any law prescribing fees to be collected by the Secretary of State.

Article 5243k. Corporations organized for the purpose of religious

worship, or for providing places of burial, not for private profit, or corporations organized for the purpose of holding agricultural fairs and encouraging agricultural pursuits, or for strictly educational purposes, or for purely public charity, are exempted from the tax imposed by this act.

Every sleeping car company, palace car company, dining car company, doing business in this State, and every corporation, person, or association of persons, leasing or renting, owning, controlling or managing any dining or sleeping cars within this State for the use of the public, and for which use any fare is charged, shall pay a tax of two and one-half per cent of their gross receipts, from all of their passenger travel originating in and ending in this State: this tax to be in addition to that now levied by law; but no occupation tax shall be levied on said companies by any county, city or town. Said tax herein provided for shall be paid to the State Treasurer, quarterly, for the use of the State; and every such company, association, person or corporation so owning, controlling or managing any such dining or sleeping car, shall quarterly report to the Comptroller of the State of Texas, under oath of the President, Treasurer, Superintendent, or some other officer of said corporation, or some agent thereof duly authorized, the amount received by them for the transportation of passengers between points in this State. Should any person, association of persons, the officers or agents of any such persons, association of persons, or corporation, herein named, fail to make the report provided in this act for thirty days after the termination of any quarter of the year, then he shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than sixty dollars (\$60.00), nor more than one hundred dollars (\$100.00); and each day after said thirty days have expired shall be deemed a separate offense; and in addition thereto, in the event of the failure of the officers or agents of any such company or corporation to make such report herein required, and pay said tax, for thirty days after the termination of any quarter of the year, each and every such company or corporation so failing, shall forfeit and pay to the State of Texas twenty-five dollars for each day said report and payment is delayed, which forfeiture shall be sued for by the Attorney General in the name of the State. For the purpose of suits and prosecutions provided for herein, venue and jurisdiction are hereby conferred upon the courts of Travis County.

Nothing in this article shall be construed to repeal or in any way affect the provisions of Article 5243g of the Revised Statutes of the State of Texas.

Sec. 2. The fact that the close of this session is rapidly approaching, and the further fact that the State is greatly in need of revenue, and in order to remove any doubt of the proper construction of the articles hereby amended, creates an emergency, and an imperative public necessity exists that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect from and after its passage, and it is so enacted.

Approved May 15, 1897.

[Note.—The foregoing act passed the House by a two-thirds vote, yeas 88, nays none; and passed the Senate by a two-thirds vote, yeas 26, nays none.]

H. B. No. 180.]

CHAPTER 121.

An Act to amend Article 5043, Revised Statutes of 1895, so as to exempt Maverick County, Texas, from the provisions of Title CII, Chapter 6, relating to the inspection of hides and animals.

Section 1. Be it enacted by the Legislature of the State of Texas: That Article 5043, of the Revised Statutes, hereafter shall read as follows:

Article 5043. The Counties of Anderson, Austin, Angelina, Atascosa, Bell, Bowie, Brazos, Bastrop, Bosque, Burleson, Brazoria, Burnet, Caldwell, Camp, Calhoun, Cass, Chambers, Cherokee, Collin, Colorado, Cooke, Delta, Denton, Ellis, El Paso, Erath, Fannin, Franklin, Falls, Freestone, Gonzales, Eastland, Stephens, Fayette, Fort Bend, Galveston, Goliad, Grayson, Gregg, Grimes, Hardin, Harrison, Hays, Henderson, Hill, Hood, Hunt, Hopkins, Houston, Jackson, De Witt, Jasper, Jefferson, Johnson, Kaufman, Lamar, Lee, Leon, Lampasas, Maverick, McLennan, Madison, Marion, Montgomery, Montague, Morris, Nacogdoches, Newton, Orange, Panola, Parker, Polk, Palo Pinto, Rains, Red River, Robertson, Rockwall, Rusk, Sabine, San Augustine, San Jacinto, Shackelford, Shelby, Smith, Titus, Trinity, Tyler, Upshur, Van Zandt, Walker, Washington, Wharton, Wise, Wood, Jack, Harris, Clay, Young, Limestone, Wheeler, Lavaca, Nueces, Bee, Refugio, San Patricio, Somervell, Matagorda, Waller, Karnes, Victoria, Milam, Live Oak, Williamson, Liberty, Wichita, Guadalupe, Gillespie, Baylor, Knox, Wilbarger, Archer, Hardeman, Childress, Hall, Collingsworth, Donley, Gray, Armstrong, Briscoe, Floyd, Randall, Kendall, Comal, Travis, Navarro, Brown, Coryell, Hamilton, Mills, Duval, Comanche, Bailey, Deaf Smith, Dallam, Oldham, Hartley, Hockley, Cochran, Wilson, Foard, Mason, Throckmorton, Menard, Uvalde, and Zavala, are hereby exempt from the operation of this act, and the provisions of the same shall in no wise relate or apply to the aforesaid counties: provided, that in those counties bordering on the line of the State, except those bordering on Red River and the Rio Grande, where there is a depot or place for the shipment of cattle, no inspector of hides and animals shall be elected, but one of each of such counties shall be appointed by the Governor, who shall hold office for two years, and until his successor shall be appointed; and said inspector so appointed to take the constitutional oath of office and give the bond now required of inspectors of hides and animals, and such inspector shall receive the same fees now allowed inspectors of hides and animals, and perform the same duties; provided, the inspector shall be in the counties of Cameron, Hidalgo, Starr, Zapata, Webb, and Encinal; provided, that such cattle shall not be subject to inspection on board of any railroad unless the same have been placed on board of such train for the purpose of evading the provisions of this act: and provided, further, that the counties of Limestone, Fayette, Lavaca, Gonzales, Colorado, Bell, Calhoun, Hays, Caldwell, Blanco, Llano, Kendall, Comal, Houston, Austin, Johnson, Hill, Ellis, Jackson, Victoria, De Witt, Freestone, Hamilton, Williamson, Milam, Live Oak, Harris, Bosque, Erath, Hood, Somervell, Liberty, Coryell, Lampasas, Mills, Wichita, Wilbarger, Hardeman, Gray, Armstrong, Briscoe, Floyd, Randall, Kendall, Fannin, Camp, Childress, Hall, Collingsworth, Donley, Delta, Franklin, Hopkins,

Hunt, Wilson, Navarro, Guadalupe, Gillespie, Baylor, Throckmorton, Wharton, and Knox shall be exempt from all laws regulating inspection of hides; and provided, further, that the provisions of this article and chapter shall in no wise relate or apply to the counties of Oldham, Hartley and Dallam; that all laws and parts of laws in conflict with the provisions of this act are hereby repealed.

Sec. 2. The great necessity for this law creates a great public necessity and emergency requiring that the constitutional rule requiring that bills be read on three several days in each house be suspended, and the same is therefore suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act passed the House; and passed the Senate with amendments; and being referred to a free conference committee, the report of said committee was adopted. Vote by number of yeas and nays, on passage of bill and on adoption of report, not given in either house.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Friday, the seventh day of May, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

H. B. No. 575.]

CHAPTER 122.

An Act to establish a more efficient road system for Marion County.

Section 1. Be it enacted by the Legislature of the State of Texas: That at the first annual meeting of the Commissioners' Court in February, the court of Marion County shall appoint from among the citizens of the county, a county road superintendent of public roads, who shall possess a practical knowledge of draining, leveling, grading, sufficient to be able to lay out all necessary work to be done by the overseers of the roads, to the end that good public roads may be established in said county.

Sec. 2. It shall be the duty of said county superintendent, twenty days before the regular periods of working the public roads (as hereinafter provided) of the county, to go over each road precinct of his county and carefully inspect the same, armed with such necessary implements, tools, levels, etc., as will enable him to properly lay out any and all work to be done, viz.: grading, draining, leveling, direction, length, depth and fall of drainage, elevation, and grading road bed. He shall provide himself with a blank book in which he shall record in a plain hand a description of all work necessary to be done, numbering the road precinct and plainly designating the places or points in said roads where the work is to be done, and said county road superintendent shall deliver to each road overseer a plainly written copy of the record of his memoranda of the work to be done, three days before the regular times of working the roads (Sundays excluded).

Sec. 3. And it shall be the duty of the overseers of the public roads

of the county to faithfully execute the work set forth and described in the copy of memoranda delivered to him by said county superintendent; and on failure upon the part of the overseer to execute the instructions so delivered to him, without reasonable cause shown, he shall be fined not less than ten nor more than twenty-five dollars for each offense, upon complaint of the county road superintendent or any citizen using the road on which said neglect or disregard of duty may occur, before the nearest justice of the peace to the road precinct where such failure to comply with said instructions may occur.

Sec. 4. The county road superintendent herein provided for shall at any and all times keep a strict supervision over all the public roads of his county, and shall have authority to call out the overseers or overseer by a three days notice at any time to build or repair any road or section of road that may need work or repairs; provided that he shall not compel the overseers to work more than ten days in one year. And the said county road superintendent shall receive for his services as herein provided annually the sum now paid to the commissioners as road reviewers, and in addition such sum as the Commissioners' Court of the county may deem just, out of the road and bridge fund, not to exceed two hundred dollars, to be paid quarterly as other county officers are paid their ex officio, and he shall be required to give a bond with approved security to the county judge and his successors in office as the County Commissioners' Court may deem just and right for faithful discharge of duty.

Sec. 5. There shall be three road working periods in the year, of three days each, except the first, which shall be four days, beginning on the first Mondays of November, March and July, of each year, or as soon thereafter as possible; provided, it shall be optionary with the overseer, with the consent of the superintendent as to the number of days that may be expended upon the road at any one of the above mentioned periods; the superintendent being responsible to the county for the conditions of the roads.

Sec. 6. It shall be the duty of the overseers of the public roads of the county in warning his hands, which shall be three days before the day designated to begin the work (Sundays excluded), to definitely designate the character and conditions of the tool or tools that each hand is required to bring upon the road, and if said hand shall disregard the requirement or order of the overseer or his lawful agent and shall bring upon the road another or inferior tool, one that he can not do a fair day's work with, the overseer shall not receive or accept such hand on the road, but shall proceed against him as the law directs as though said hand had not appeared upon the road at all, before the nearest justice of the peace; provided, the overseer may give to said hand one hour to comply with the order of the overseer when summoned to work the road. Overseers shall receive no substitute for able bodied men who are not able to do a full and satisfactory day's work, and a majority of the hands, by vote, may reject a substitute for cause or disability.

Sec. 7. The county shall furnish all teams, plows, and scrapers; provided, the overseers may make such deal with any of the hands as will be to the advantage of the county.

Sec. 8. It shall also be the duty of the county road superintendent as provided in this act to inspect all bridges in his county and report the condition of said bridges to the commissioners at any call or regular

meeting of same, and in said report he shall state the condition of the bridge or bridges with a statement of the work necessary to be done on the bridge or bridges and the probable cost of the same.

Sec. 9. And it is herein further provided, that at the first regular meeting of the County Commissioners' Court, after this act shall take effect and become a law, said court shall appoint the county road superintendent as provided for by this act, who shall hold his office and perform all duties made incumbent upon him by this act until the first regular meeting of said court in February, A. D. 1898, at which meeting of the court a regular road superintendent, as herein provided, shall be appointed. This act to take effect and become a law ninety days after its passage, and all laws and parts of laws in conflict with this act are hereby repealed.

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Friday, the seventh day of May, A. D. 1897, but was not signed by him nor returned to the House in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

Takes effect 90 days after adjournment.

H. B. No. 616.]

CHAPTER 123.

An Act to create a more efficient road system for the County of Calhoun, State of Texas, and making County Commissioners of said county ex officio Road Commissioners, and prescribing their duties as such, and providing for their compensation as said Road Commissioners, and defining the powers and duties of said Commissioners, and providing for the appointment of road overseers, defining their duties, and for the working of county convicts upon the roads of said county, and providing for officers' and witnesses' fees, and providing for the working of delinquent poll tax payers.

Section 1. Be it enacted by the Legislature of the State of Texas: That the Commissioners' Court of Calhoun County may appoint a road overseer for each commissioner's precinct in the county, or for each justice's precinct, who shall hold their offices for two years and until their successors are qualified.

Sec. 2. The overseers so appointed shall perform all duties required of overseers under the general laws of this State, and such other duties as may be required of them by the Commissioners' Court of said county, and shall receive such compensation as the Commissioners' Court may prescribe, not to exceed two dollars per day for the time actually engaged.

Sec. 3. Each overseer shall within twenty days after his appointment take the constitutional oath, and enter into a bond payable to the County Judge, in such sum as may be fixed by the Commissioners' Court, to be approved by the County Judge, conditioned that he will well and faithfully discharge all the duties incumbent upon him as such overseer; that he will promptly make all reports required of him by this act or by the Commissioners' Court, and that he will correctly disburse and account for all the funds that may come into his hands according to law and

orders of the Commissioners' Court, which bond shall not be void for want of form or void on the first recovery but may be sued upon until fully exhausted.

Sec. 4. The Commissioners' Court may for good cause, to be determined by themselves, at any time remove an overseer, and in case of vacancy for any cause, may fill the same for the unexpired term.

Sec. 5. Each overseer shall take charge of all the tools, implements and supplies of any kind placed under his control by the Commissioners' Court and execute his receipt therefor, which shall be filed with the county clerk, and he shall be responsible for all such teams, tools, implements and supplies, and for the proper expenditure of all public moneys coming into his hands, and shall be liable for the loss, injury or destruction of all such tools, teams, implements and supplies if the result of his negligence, or for the wrongful or unauthorized expenditure of such money; and upon the expiration of his term or in case of his resignation or removal, he shall deliver all such money and property to his successor or to such person as the Commissioners' Court may direct.

Sec. 6. The overseer of each precinct shall subdivide his precinct into as many sections as may be necessary for convenience and shall require each person subject to road duty in his precinct, to work upon the roads in the particular section in which he resides, and in order to have all road work more promptly and vigorously prosecuted, the overseer may appoint sub-overseers in the several sections of his precinct, but the overseer himself shall exercise at all times a supervision over the different sections and sub-overseers, and shall plan and direct all work to be done, and may require the sub-overseer to warn all the road hands subject to duty of the time and place of working as is required by existing laws.

Sec. 7. The Commissioners' Court shall require all able bodied county convicts, not otherwise more profitably employed, to labor upon the public roads of the county under such regulations as it may prescribe, and each convict so employed shall receive credit, first, upon the fine, and, then, upon the costs, of fifty cents per day for each day he shall labor; provided, that no convict shall be required to labor on Sunday, but shall nevertheless have the same credit as if he had labored on that day.

Sec. 8. The Commissioners' Court may at any regular term, allow to the officers and witnesses in a convict case, where the convict has worked upon the roads, such portion of their lawful cost as it may determine, not to exceed in any case the following: County Judge, \$2.50; County Attorney, \$5.00, including commissions; County Clerk and Justice of the Peace, \$2.00; Sheriff and Constable, \$2.50; witnesses, twenty-five per cent of their legal fees; which allowances shall be paid out of the road and bridge fund, on the warrants of the County Judge, when the said fine and costs shall have been worked out by the convict as provided in this act. The Commissioners' Court may provide the necessary houses, prisons, food, clothing, bedding, medicines, medical attention and guards necessary for the safe keeping and humane treatment of such convicts, and may grant a reasonable commutation of time to a convict in consideration of faithful service and good behavior, such commutation in no case to exceed one-tenth of the entire time.

Sec. 9. The overseer may contract with any person subject to road duty in his precinct for the use of wagons and teams, and permit such person to discharge his road service in the hire of such wagon and team;

provided, he shall not allow more than two dollars per day for any wagon and team, or more than three dollars per day for wagon and team and driver.

Sec. 10. It shall be the duty of each overseer to see that all roads, bridges and culverts, and drains in his precinct are kept in good repair; to see that every person subject to road duty in his precinct performs the service for which he is liable under the law or that such service is in some way excused or commuted as provided by law; to see that all mile posts and guide boards at the forks of roads are kept continuously up and in order, and when the same are removed or defaced to immediately repair or replace them. He shall act as supervisor of roads in his precinct and perform all the duties as supervisor heretofore devolving upon the County Commissioners, and the County Commissioners of said county are hereby relieved from the duties prescribed by Article 4390a of the Revised Civil Statutes.

Sec. 11. Every able bodied male person between the ages of twenty-one and forty-five years resident in the county, except such persons as are exempt from road duty under the general laws of this State, shall be liable to labor on the public roads; provided, that any one so liable may discharge such liability, (1) by furnishing a substitute who is acceptable to the overseer. (2) By paying to the overseer the sum of one dollar for each day he may be summoned to work, or by paying four dollars at any time shall be discharged from all liability for the entire year, to end on December 31st of each year. (3) By presenting to the overseer the certificate of a reputable physician certifying that the party is permanently or temporarily incapacitated for such physical labor as is necessary for road service. (4) By substituting wagons and teams suitable and satisfactory to the road overseer as provided in Section 8 of this act.

Sec. 12. Every insolvent tax payer being a resident of the county who shall be indebted to the county on any unpaid county poll tax, and from whom the said poll tax can not be otherwise collected by law, shall be permitted to discharge the amount of such unpaid county poll tax, in labor upon the public roads of his precinct at the rate of one dollar per day. In order to enforce the provisions of this section the collector of taxes for the county shall be required on or before the second Monday in February of every year to furnish to the several overseers of the county the names of all the defaulting poll tax payers together with the amount of the county poll tax due and unpaid by each, for which ex officio service the collector shall be exempt from road duty; and it shall be the duty of the overseer whenever any such person shall have discharged his county poll tax as herein provided, to report the same to the tax collector, who shall credit the party on the tax roll, and report the same in his regular report to the Commissioners' Court; provided, that no fines and penalties shall be recovered of insolvent poll tax payers for the failure to work out their poll tax under the provisions of this act.

Sec. 13. Each road overseer shall make his report under oath to the Commissioners' Court every six months, giving an itemized statement of all moneys belonging to the road fund which he has received, from whom received, and for what, and what disposition he has made of the same, the condition of all roads, bridges, culverts and drains, the number and character of all mile posts and guide boards erected and where the same

are located and such other information as the Commissioners' Court may require, and may accompany said report with such suggestions as may seem to him pertinent in regard to the public roads and the duties of that office.

Sec. 14. Any road overseer who shall wilfully or negligently fail or refuse to comply with any provision of this act, or to perform any lawful and reasonable order of the Commissioners' Court, or to discharge any duty imposed upon him by this act or by any other existing law of the State, not in conflict herewith, shall be deemed guilty of a misdemeanor, and on conviction thereof, in a court of competent jurisdiction, shall be punished by a fine of not less than ten nor more than one hundred dollars, such fine, when collected, to go into the road and bridge fund.

Sec. 15. Whenever it shall be necessary to occupy any private lands for the purpose of opening, widening, straightening, or draining any public road or any part thereof, if the owner of such land and the Commissioners' Court can not agree upon the amount of damage to be paid, the court may proceed to condemn the same in the same manner that a railroad company can condemn land for a right of way, and the same proceedings may be had, and the same rights shall exist to each party as would exist if the proceedings were by a railroad company; except that the county shall in no case be required to give bond either for cost or on appeal.

Sec. 16. This act shall be cumulative of all general laws of the State on the subject of roads and bridges and employment of county convicts not in conflict herewith and not otherwise provided herein, such general laws shall apply, but in case of conflict with general laws this act shall govern, and the courts of the State shall take judicial cognizance of this act in the same manner and to the same extent as they are required to know and notice the general laws of the State.

Sec. 17. The fact that there is no efficient road law in force in this State, creates an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act passed the House, vote not given; and passed the Senate by a two-thirds vote, yeas 22, nays none.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Friday, the seventh day of May, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

H. B. No. 592.]

CHAPTER 124.

An Act to amend Sec. 3 of Chapter 132 of the acts of the 24th Legislature establishing a special road law for the counties of Dallas and Lamar, prescribing the same fees in county convict cases for the officers in said counties as those allowed officers in similar cases under the general law of the State.

Section 1. Be it enacted by the Legislature of the State of Texas: That Section 3 of Chapter 132 of the Acts of the 24th Legislature establishing a special road law for the counties of Dallas and Lamar, be and the same is hereby so amended as to read hereafter as follows:

Sec. 2. The commissioners of said counties shall require all county convicts of said counties, not otherwise employed, to labor on the public roads under such regulations as said court may prescribe, and each convict so worked shall receive a credit of fifty cents, on his fine, first, and, then, on the cost, for each day he may labor. The commissioners may at a regular term allow to the officers such amount of their costs for the arrest and conviction of said convicts as is provided in Article 3742, Revised Civil Statutes of 1895, which amount shall be paid out of the road and bridge fund on the warrant of the commissioners, when said fine and costs shall have been worked out, as provided in this section; provided, that this shall not be construed so as to relieve any convict from the payment of all costs for which he would be liable under the general laws of the State. The Commissioners' Court may grant a reasonable commutation of time for which a convict is committed as a reward for good behavior and faithful service; provided, that such commutation shall in no case exceed one-tenth of the whole time. The Commissioners' Court may provide the necessary houses, prisons, clothing, bedding, food, medicine, medical attention, and guards, for the safe and humane treatment of convicts.

Sec. 3. That Section 14 of Chapter 132 of the Acts of said 24th Legislature be repealed.

Sec. 4. The importance of this bill to the two several counties, creates an emergency and public necessity that the constitutional rule requiring bills to be read on three separate days be suspended, and said rule is hereby suspended, and that this act take effect from and after its passage, and it is so enacted.

[Note.—The foregoing act passed the House, vote not given; and passed the Senate by a two-thirds vote, yeas 21, nays none.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Friday, the seventh day of May, A. D. 1897, but was not signed by him nor returned to the House in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Maden, Secretary of State.]

H. B. No. 228.]

CHAPTER 125.

An Act to prevent the introduction of scab disease among sheep in the State of Texas, and to prevent the spread of and secure the eradication of same, and providing a manner of examining such animals, together with the manner of taxing and collecting costs therefor, and making it a misdemeanor to violate the provisions of this act, and prescribing penalties for such violation.

Section 1. Be it enacted by the Legislature of the State of Texas: That from and after the passage of this act, it shall be unlawful to import into this State, or to move from one county to another, or to move from their accustomed range on to lands owned or leased by any person, without permission of such person, any flock of sheep in which one or more such animals are infected with scab, and any person or persons violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not more than two hundred dollars for each such offense.

Sec. 2. Any person having knowledge or notice of the existence of scab on any sheep owned or in charge of such person, who shall fail or refuse to dip in some preparation known to be effectual in curing scab, all flocks of sheep in which one or more such animals are so infected, within twenty days after such knowledge or notice has been received, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not less than one hundred nor more than two hundred dollars; Provided, that every successive twenty days of failure or refusal to dip such sheep, under the provisions of this section, shall be considered a separate offense.

Sec. 3. For the purpose of determining the existence of scab, under the provisions of this act, and to serve notice on persons as provided in Section 2, the justice of the peace having jurisdiction, upon complaint of any person owning or having charge of sheep, supported by affidavit, as to his belief that a flock of sheep within such jurisdiction are infected with scab, shall forthwith issue order to a constable or some peace officer of his county, directing such officer to summon to his aid two persons having knowledge of scab, and to proceed with such persons and examine the sheep so designated, and to notify in writing the owner or person in charge of said sheep, of the result of such examination, and to return to the court of issue such order, showing how he has executed the same.

Sec. 4. Any person refusing to permit the examination provided for in Section 3 of this act or to place the sheep in pens for such purpose, shall be deemed guilty of a misdemeanor, and upon conviction thereof, punished by a fine of not less than one hundred nor more than two hundred dollars.

Sec. 5. Upon return of the order provided for in Section 3 of this act, the Justice of the Peace shall, if it states said sheep are not infected, or that they have been dipped, within ten days next preceding such examination, dismiss such cause. But if such order states said sheep are infected with scab and have not been dipped within the ten preceding days, said Justice of the Peace shall issue warrant of arrest forthwith, against the owner or person having said sheep in charge, and proceed as in other misdemeanor cases; provided, should defendant show, by competent testimony, that such infected sheep were held only on his own

or accustomed range, and that he had dipped all flocks so infected, as provided in this act, within twenty days after receiving notice, or within ten days next preceding the serving of such notice, he shall upon payment of all accrued costs be discharged.

Sec. 6. The constable or other peace officer and the person summoned to assist, shall receive as compensation for services performed under the provisions of this act, and for attendance at court as witnesses in such cases, the sum of two dollars and fifty cents per day for each day actually and necessarily so engaged, and such fees shall be taxed as costs against the owner of such sheep; and execution shall be issued; provided, in all cases where it is found such sheep are not infected or have been dipped within the ten days next preceding the examination so made, the costs and fees shall be taxed against the person who made the complaint, and execution shall so issue.

Sec. 7. All laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

Sec. 8. The fact that there is now no adequate law upon this subject creates an emergency and an imperative public necessity requiring the suspension of the constitutional rule that requires bills to be read on three several days, and said rule is hereby suspended, and this act shall take effect and be in force from and after its passage.

[Note.—The foregoing act passed the House by a two-thirds vote, yeas 88, nays 3; and passed the Senate by a two-thirds vote, yeas 23, nays none.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Friday, the seventh day of May, A. D. 1897, but was not signed by him nor returned to the House in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Mad-den, Secretary of State.]

H. B. No. 456.]

CHAPTER 126.

An Act to amend Subdivision 13, Article 22, Title 4, of the Revised Civil Statutes of Texas, changing and fixing the times of holding courts in the Thirteenth Judicial District.

Section 1. Be it enacted by the Legislature of the State of Texas: That Subdivision 13, Article 22, Title 4, of the Revised Civil Statutes of the State of Texas be so amended as hereafter to read as follows:

In the county of Limestone, begin on the first Monday in January, and on the last Monday in July, and may continue in session six weeks each term.

In the county of Freestone on the sixth Monday after the first Monday in January, and on the sixth Monday after the last Monday in July, and may continue in session four weeks each term.

In the county of Navarro, on the tenth Monday after the first Monday in January, and may continue in session nine weeks, and begin on the first Monday in June, and may continue in session six weeks, and

begin on the tenth Monday after the last Monday in July, and may continue in session nine weeks.

Sec. 2. That all writs and process returnable to the said courts, shall be returnable to the terms of the said courts as herein fixed; and all such writs and process as have been issued, executed and returned, shall be valid as if no change had been made in the time of holding said courts.

Sec. 3. That all laws and parts of laws in conflict with this act be and the same are hereby repealed, and this act shall take effect on and after the first day of August, 1897.

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Friday, the seventh day of May, A. D. 1897, but was not signed by him nor returned to the House in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Mad-den, Secretary of State.]

Takes effect 90 days after adjournment.

H. B. No. 591.]

CHAPTER 127.

An Act to restore and confer upon the County Court of Lampasas County the civil and criminal jurisdiction heretofore belonging to said court under the Constitution and general statutes of Texas, to define the jurisdiction of said court, to conform the jurisdiction of the district court of said county to such change, to fix the time for holding court, and to repeal all laws in conflict with this act.

Section 1. Be it enacted by the Legislature of the State of Texas: That the County court of Lampasas county shall hereafter have exclusive original jurisdiction in civil cases wherein the matter in controversy shall exceed in value two hundred dollars, and shall not exceed five hundred dollars, exclusive of interest, and shall have concurrent jurisdiction with the district court of said county when the amount in controversy shall exceed five hundred dollars and not exceed one thousand dollars.

Sec. 2. Said county court shall have appellate jurisdiction in civil cases over which justices' courts have original jurisdiction, when the judgment of the court appealed from or the amount in controversy shall exceed twenty dollars, exclusive of interest, and said county court shall have power to hear and determine cases brought up from justices' courts by certiorari, under the provisions of the title of the Revised Statutes relating thereto.

Sec. 3. The county judge of said county shall have authority, either in term time or in vacation, to grant writs of injunction, sequestration, mandamus, garnishment, attachment, certiorari, supersedeas, and all writs necessary to the enforcement of the jurisdiction of said court, and shall also have power to issue writs of habeas corpus in all cases in which the Constitution has not exclusively conferred the power on the district court or judge thereof.

Sec. 4. That said court shall have and exercise the general jurisdic-

tion of a probate court; shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards; grant letters testamentary and of administration, settle accounts of executors, administrators and guardians, transact all business pertaining to the estates of deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the partition, settlement and distribution of estates of deceased persons, and to apprentice minors, as provided by general law, and to issue all writs necessary for the enforcement of its jurisdiction, orders and decrees.

Sec. 5. Said county court shall have jurisdiction in the forfeiture and judgment of all bonds and recognizances taken in criminal cases of which said court has original or appellate jurisdiction.

Sec. 6. Said county court shall have exclusive original jurisdiction of all misdemeanors, except misdemeanors involving official misconduct, and misdemeanors in which the highest penalty that may be imposed by the law is a fine without imprisonment that does not exceed two hundred dollars; and said court shall have concurrent jurisdiction, with trial de novo, in criminal cases in which justices of the peace and other inferior tribunals of said county have original jurisdiction.

Sec. 7. The district court of said county shall no longer have jurisdiction of misdemeanors, except misdemeanors involving official misconduct, and shall no longer have jurisdiction of cases of which the county court of said county by provisions of this act has original or appellate jurisdiction.

Sec. 8. It shall be the duty of the district clerk of said county, within thirty days after this act shall take effect, to make full and complete transcripts of all orders on the criminal and civil dockets then pending before the district court of said county of which cases, by the provisions of this act, original and appellate jurisdiction is given to the said county court, and to deliver said transcript, together with the original papers in each case, to the county clerk of said county, and the said county clerk shall file the same, and enter said cases on the respective dockets for trial by said court.

Sec. 9. The said county court shall also have the power to hear and determine all motions against sheriffs and other officers of the court for failure to pay over moneys collected under the process of said court, or other defalcations of duty in connection with such process, and shall have power to punish by fine not exceeding one hundred dollars and by imprisonment in the county jail not exceeding three days, any person guilty of contempt of said court, and all other powers and jurisdiction conferred on county courts by the Constitution and general laws of this State.

Sec. 10. The term of said court shall commence on the second Monday in January, and on the second Monday in April, and on the second Monday in July, and on the second Monday in October of each year, and shall continue in session for each term until the business may be disposed of; provided, that the county commissioners' court of said county may hereafter change the terms of said court whenever it may be deemed necessary.

Sec. 11. All laws and parts of laws in conflict with this act be and the same are hereby expressly repealed.

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Friday, the seventh day of May, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

Takes effect 90 days after adjournment.

H. B. No. 463.]

CHAPTER 128.

An Act to amend Article 802, of Chapter 3, of Title XVII, of the Penal Code of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas: That article 802, of chapter 3, of title XVII, of the Penal Code of this State be so amended as to hereafter read as follows, viz.:

Article 802. If any person shall herd any drove of horses, mules, cattle, sheep, goats or hogs, numbering more than five head, upon any land not his own, and within one-half mile of the residence of any citizen of this State, whenever the owner, lessee or legal representative of such land shall forbid such herding, and shall fail, neglect or refuse to remove such drove at once upon the request of such owner, lessee or legal representative; or whenever any person shall herd any such drove of horses, mules, cattle, sheep, goats or hogs upon the enclosed lands or pasture of another, or cause the same to be so herded without the consent of such owner, lessee or legal representative, he shall be fined in any sum not exceeding one hundred dollars; "provided, that this article shall not apply to droves which are driven through pastures, by the usual route of travel through such pastures, in the most direct and practicable route to any named point of destination, traveling at the greatest practicable speed," and where there is no public road leading to the point of destination; and provided, further, that no person shall be authorized, under the provisions of this act, to drive any drove or herd of stock of any kind into any inclosure belonging to another for the purpose of grazing or holding such drove or herd of stock for any length of time whatever, without the consent of the owner, lessee, or person in charge of such inclosure. This act shall not apply to herds or droves of stock while being held for shipment; provided, that the owner or agent of such stock shall pay the owner of the premises so herded upon, reasonable pasturage and all damages done by said stock.

Sec. 2. The fact that no law exists in this State giving adequate protection to pasture owners against the depredations of vagrant herds, creates an imperative public necessity and an emergency why the rule requiring bills to be read on three several days should be suspended, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Friday, the seventh day of May, A. D. 1897, but was not signed by him nor returned to the House in which it originated

with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

Takes effect 90 days after adjournment.

S. S. B. No. 63.]

CHAPTER 129.

An Act to repeal Articles 4218d and 4218i, Chapter 12a, Title 87, of the Revised Civil Statutes of the State of Texas, and to add to said chapter Articles 4218ff and 4218ff f, and to amend Articles 4218e, 4218f, 4218h, 4218s, and 4218y of said chapter and title, relating to the sale and lease of public free school and asylum lands.

Section 1. Be it enacted by the Legislature of the State of Texas: That Articles 4218d and 4218i, Chapter 12a, Title 87, of the Revised Civil Statutes of the State of Texas, be and the same are hereby repealed, and that Articles 4218ff and 4218ff f be added thereto, and Articles 4218e, 4218f, 4218h, 4218s, and 4218y of said chapter and title be amended so as to hereafter read as follows:

Article 4218e. The commissioner of the general land office may, from time to time, as the public interest may require, classify any or all of the lands belonging to the several funds mentioned in this chapter that have not been heretofore classified, upon such facts as may be satisfactory to him, designating the same as agricultural, grazing or timbered land, according to the fact in the particular case; and he may prescribe such regulations in relation thereto as he may deem necessary to secure a correct classification. He may also reclassify any lands heretofore erroneously classified, upon the official certificate of the commissioners' court of the county in which said land is situated, or of the county to which such county is attached for judicial purposes, certifying what the proper classification should be, said certificate to be signed by the entire commissioners' court, including the county judge, or upon such other evidence as may be satisfactory to the commissioner.

Article 4218f. When any portion of said land has been classified to the satisfaction of the commissioner of the general land office, under the provisions of this chapter or former laws, such lands shall be subject to sale, but to actual settlers only, except where otherwise provided by law, and in quantities of not less than eighty acres or multiples thereof, nor more than four sections containing six hundred and forty acres, more or less; provided, that the purchaser shall not include in his purchase more than two sections of agricultural land; and provided, that where there is a fraction less than eighty acres of any section left unsold, such fraction may be sold. Any bona fide purchaser who has heretofore purchased or who may hereafter purchase any lands as provided herein shall have the right to purchase other lands in addition thereto; provided, that the total of his purchases shall not exceed four sections, and that it shall not include more than two sections of agricultural land, upon his making oath that he is not acting in collusion with others for the purpose of buying the land for any other person or corporation, and that no other person or corporation is interested in the purchase thereof. And if he or his ven-

dor has already resided upon his home section for three years, or when he or his vendor, or both together, shall have resided upon it for three years, the additional lands purchased may be patented at any time. In all cases where a settler purchases more than one section the lands in excess of one section so purchased must be situated within a radius of five miles of the land occupied by him. Where any of the lands referred to in this act have been sold prior to July 30th, 1895, in quantities greater or less than forty acres or multiples thereof, and are in good standing as to interest payments, they may be patented in such quantities. In any cases where lands have been forfeited to the State for the non-payment of interest, the purchasers or their vendees may have their claims reinstated on their written request, by paying into the treasury the full amount of interest due on such claim up to the date of reinstatement; provided, that no rights of third persons may have intervened. In all such cases the original obligations and penalties shall thereby become as binding as if no forfeiture had ever occurred.

Article 4218ff. When any purchaser buys and settles upon a section or part of a section of school lands, and buys, either at the same time or subsequently, other lands in addition thereto, a forfeiture for any legal cause of the part on which he resides, at any time before the three years residence thereon has been completed, shall work a forfeiture of the entire purchase, except such part thereof as he may have previously sold to another. But after the three years residence has been completed, a forfeiture of the home tract shall not of itself work a forfeiture of the other tract or tracts. In case of sale of any of said tracts before the three years residence has been completed, the vendee must reside thereon until he has completed the three years occupancy from the date of the original purchase, and a failure to do so shall subject his land to forfeiture; but in case of sale of any of said tracts after the completion of the three years residence, the vendee shall be exempt from the condition of settlement and occupancy.

Article 4218fff. Any actual, bona fide owner of and resident upon any other lands contiguous to said lands, or within a radius of five miles thereof, may also buy any of the aforesaid lands, but in such case a failure to reside upon either his other lands or upon a part of the additional lands so purchased by him, so as to make his ownership and occupancy thereof continuous for three years, shall work a forfeiture of such additional lands so bought from the State, unless he shall have sold his land to another who may and does complete a three years continuous ownership and occupancy of and residence upon his said lands as above stated and as is herein required of actual settlers.

Article 4218h. All agricultural lands belonging to the public free schools and the several asylum funds shall be sold at not less than one dollar and fifty cents per acre; and all grazing lands shall be sold at not less than one dollar per acre; and all timbered lands shall be sold at not less than five dollars per acre. By timbered lands is meant lands valuable chiefly for the timber thereon. Provided, that the owner of land which is in fact agricultural, purchased under former laws, and which land is not subject to forfeiture at the time this law goes into effect, shall not be permitted, in case said land is forfeited, to purchase said forfeited land from the State for a less price per acre than the contract price under the former sale.

Article 4218s. Any person desiring to lease any portion of the lands belonging to any of the funds mentioned in this chapter, shall make application in writing to the commissioner of the general land office, specifying and describing the particular lands he desires to lease, and thereupon, the commissioner, if satisfied that the lands applied for are not in immediate demand for purposes of actual settlement, shall notify the applicant in writing that his proposition to lease is accepted, and thereupon he shall execute to the lessee in the name and by the authority of the State of Texas a lease of said land for such time as may be agreed upon, and when satisfied that the lessee has paid to the treasurer of the State the rent for one year in advance, shall deliver said lease to the clerk of the county court of the county in which the land is situated or of the county to which said county is attached for judicial purposes, and it shall be the duty of the clerk to record in a well bound book, to be kept in his office, open to public inspection, a memorandum or abstract of said lease, showing the number of the survey or surveys leased, the name of the original grantee, the amount leased, the name of the lessee, the date of the lease, and the number of years it has to run; and foreentering said memorandum the clerk shall be entitled to a fee of twenty-five cents. Upon the payment of said fee, the clerk shall deliver the lease to the lessee; and no other record of leases hereafter made shall be required except said memorandum.

All lease contracts heretofore made and not recorded, shall be filed for record with the clerk of the proper county, within three months after this act takes effect, and if any lessee shall fail to have his unrecorded lease so filed for record within said time, the Commissioner of the General Land Office shall disregard said lease, and award the land to any other applicant accompanying his application with the certificate of the clerk that no lease of said land is of record in his office. When any of such leases are filed for record, the clerk shall make the memorandum or abstract above provided for. All lands which may be leased shall be subject to sale at any time except where otherwise provided herein. This provision in regard to the sale of leased lands shall apply to leases heretofore made, as well as to those hereafter to be made. Any section or part of a section which may be leased, shall not be sold, nor shall the lessee be disturbed in his possession thereof during the term of his lease, in the following cases:

1. When the lessee has actually settled upon such section, or part of a section, and erected thereon his residence and substantial improvements for permanent settlement.
2. When he has placed on such section or part of a section improvements of the value of two hundred dollars.
3. When the aggregate of the land owned by a settler and leased by him does not exceed one section.

Any lands which may be leased south and west of the line herein designated shall not be sold during the term of the lease until otherwise provided by law; provided, the sections leased by any one party are not so selected as to detach sections which are thereby left unleased. Said line begins at the northwest corner of Yoakum County; thence East, to the northeast corner of Kent County; thence South, to the north line of Fisher County; thence West, to the northeast corner of Scurry County; thence south, to the north line of Coke County; thence East, to the

northwest corner of Runnels County; thence South, to the southwest corner of Runnels County; thence East, to the northwest corner of Concho County; thence South, to the southwest corner of Concho County; thence East, to the southeast corner of Concho County; thence South, to the southwest corner of McCulloch County; thence East, to the southeast corner of McCulloch County; thence South, to the southwest corner of San Saba County; thence East, to the northwest corner of Llano County; thence South, to the southeast corner of Mason County; thence West, to the northwest corner of Gillespie County; thence South, to the southwest corner of Gillespie County; thence East, to the northeast corner of Kerr county; thence South, to the southeast corner of Bandera County; thence West, to the northeast corner of Uvalde County; thence South, to the southwest corner of Medina County; thence East, to the northeast corner of Frio County; thence South, to the northeast corner of La Salle County; thence East, to the northeast corner of McMullen County; thence South, to the southeast corner of McMullen County; thence East, to the Nueces river; thence down said stream to its mouth: Except in that portion of the State South and West of the above delineated line, any actual settler shall have the right to lease within a radius of five miles of the land occupied by him, not exceeding three sections of the land held by a lease holder who is leasing more than ten sections from the State, but shall not be allowed thereby to reduce the large leasehold to less than ten sections. In all cases where the lease is terminated under any of the provisions of this act before the expiration of the term of lease, the lessee shall have a pro rata credit upon his next year's rent, or the money refunded to him by the treasurer, as he may elect. On the expiration of his lease, or its termination under any provision of law, the lessee shall have the right for the period of sixty days to remove any or all improvements he shall have placed upon the leased premises. No purchaser or other person than the lessee shall be permitted to turn loose within such lessee's inclosure more than one head of horses, mules or cattle, or in lieu thereof four head of sheep or goats, for every ten acres of land so purchased, owned or controlled by him and uninclosed. Each violation of the provisions of this act, which restrict the number of stock which may be turned loose in such inclosure, shall be an offense, and the offender, on conviction, shall be punished by a fine of one dollar for each head of stock he may so turn loose, and each thirty days' violation of the provisions of this section shall constitute a separate offense.

Article 4218y. The Commissioner of the General Land Office may withhold from lease any agricultural lands necessary for the purpose of settlement, and no agricultural lands shall be leased, if, in the judgment of the Commissioner, they may be in immediate demand for settlement, but such lands shall be held for settlement, and sold to actual settlers only, under the provisions of this chapter; and all sections and fractions of sections, in all counties organized prior to the first day of January, 1875, except El Paso, Presidio and Pecos Counties, which sections are isolated and detached from other public lands, may be sold to any purchaser, except to a corporation, without actual settlement, at one dollar per acre, upon the same terms as other public lands are sold under the provisions of this chapter.

Sec. 2. The fact that the existing law makes no provision for a re-

classification of lands which have been erroneously classified, thus working great injustice in many cases, and that the opinion has been given out from the attorney general's office that no lands are subject to sale during the term of the lease, thus preventing settlement, create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act passed the Senate by a vote of yeas 17, nays 6; passed the House with amendments by a two-thirds vote, yeas 104, nays none, and being referred to a free conference committee, the report of said committee was adopted, vote by number of yeas and nays not given in either house.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Friday, the seventh day of May, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

S. B. No. 351.]

CHAPTER 130.

An Act to amend articles 641 and 642, Chapter 2, Title XXI, of the Revised Civil Statutes of Texas, relating to the creation of corporations.

Section 1. Be it enacted by the Legislature of the State of Texas: That Articles 641 and 642, Chapter 2, Title XXI, of the Revised Civil Statutes of Texas, be and the same are hereby amended so that hereafter they shall read as follows:

Article 641. Private corporations may be created by the voluntary association of three or more persons for the purposes and in the manner hereinafter mentioned.

Article 642. The purposes for which private corporations may be formed are:

- (1) The support of public worship.
- (2) The support of any benevolent, charitable, educational or missionary undertaking.
- (3) The support of any literary and scientific undertaking; the maintenance of a library or promotion of painting, music and other fine arts.
- (3a) For the establishment and maintenance of oil companies, with authority to contract for the lease and purchase of the right to prospect for, develop, and use, coal and other minerals, and petroleum: also, the right to erect, build, and own, all necessary oil tanks, cars, and pipes, necessary for the operation of the business of the same.
- (4) The encouragement of agriculture and horticulture by associations for the maintenance of public fairs and exhibitions of stock and farm products.
- (5) The maintenance of a public or private cemetery or crematory.
- (6) The construction and maintenance of any species of roads and bridges in connection therewith.

(7) The construction and maintenance of a bridge which may be used for any or all modes of travel and transportation.

(8) The construction and maintenance of a telegraph and telephone line.

(9) The establishment and maintenance of a ferry.

(10) The establishment and maintenance of a line of stages.

(11) Building and navigation of steamboats and vessels and the carriage of persons and property therein.

(12) The supply of water to the public.

(13) The manufacture and supply of gas, and the supply of light, heat, and electric motor power, or either of them, to the public, by any means.

(14) The transaction of any manufacturing or mining business, and the purchase and sale of such goods, wares and merchandise used for such business.

(15) The transaction of a printing or publishing business, and in connection therewith, the sale of goods, wares and merchandise of a stationary and blank book manufacturing business.

(16) The establishment and maintenance of a hotel or steam laundry.

(17) The erection or repair of any building or improvement, and the accumulation and loaning of money for said purposes, and for the purchase, sale and subdivision of real property in towns, cities and villages and their suburbs not extending more than two miles beyond their limits; and for the accumulation and loaning of money for that purpose.

(18) The transportation of goods, wares and merchandise, or any valuable thing.

(19) The promotion of immigration.

(20) The construction and maintenance of sewers.

(21) For the constructing, acquiring and maintaining and operating street railways and suburban belt lines of railways within and near cities and towns, for the transportation of freight or passengers; which may, also, construct, own and operate union depots; but no street railway company shall ever be exempt from the payment of assessments that may be legally levied or charged against it for street improvements; and for the establishment of companies to buy, own, sell and convey the right of way upon which to construct railroads; provided, that all street or suburban railways engaged in transporting freight shall be subject to the control of the Railroad Commission.

(22) The erection and maintenance of market houses and market places.

(23) The construction, maintenance and operation of dams, reservoirs, lakes, wells, canals, flumes, laterals, and other necessary appurtenances for the purpose of irrigation, navigation, milling, mining, stock raising and city water works.

(24) The purchase and sale of goods, wares and merchandise, and agricultural and farm products.

(25) For the purpose of buying and selling goods, wares and merchandise of any description, by wholesale or wholesale and retail; provided, that no corporation created under this subdivision shall be chartered with a capital stock of less than twenty thousand dollars; and provided, further, that such wholesale and retail business shall not be conducted apart or in separate establishments.

(26) The construction of harbors and canals on the coast of the Gulf of Mexico.

(27) The growing, selling and purchasing of seeds, plants, trees, etc., for agricultural, horticultural and ornamental purposes, and to purchase and lease all lands necessary for that purpose.

(28) The construction or purchase and maintenance of mills, gins, cotton compresses, grain elevators, wharves, and public warehouses for the storage of products and commodities, and the purchase, sale and storage of products and commodities by grain elevators and public warehouse companies, and the loan of money by such elevators or public warehouse companies.

(29) The accumulation and loan of money; but these subdivisions shall not permit incorporations with banking or discounting privileges.

(30) The construction and maintenance of stock yards and pens.

(31) The construction and maintenance of establishments for slaughtering, refrigerating, canning, curing, and packing meat, and loaning or advancing money by such establishments on any class of live stock.

(32) The construction and maintenance of establishments for the preserving and canning of fruits, vegetables and fish.

(33) The establishment and maintenance of clearing houses.

(34) To construct and maintain water power.

(35) For the purpose of constructing railroads and bridges for railroad companies.

(36) To support and maintain bicycle clubs, and other innocent sports.

(37) To act as trustee, assignee, executor, administrator, guardian or receiver, when designated by any person, corporation or court so to do, and to do a general fiduciary and depository business; to act as surety and guarantor of the fidelity of employes, trustees, executors, administrators, guardians, or others appointed to or assuming the performance of any trust, public or private, under appointment by any court or tribunal, or under contract between private individuals or corporations, also on any bond or bonds that may be required to be filed in any judicial proceeding; to act as executor and testamentary guardian, when designated as such by decedents; or to act as administrator or guardian when appointed by any court having jurisdiction; provided, that when any executor's administrator's or guardian's bond, or any bond required to be filed in any judicial proceeding, may be signed as surety by any corporation organized by authority of this section, and if such corporation shall be deemed and considered by the officer charged by law with the duty of accepting and approving such bond as sufficient security for the amount of such bond, such bond may be accepted and approved by the officer charged by law with the duty of accepting and approving the same without being signed by other sureties than such corporation, and any statute or law to the contrary, or requiring any such bond to be signed by two or more good and sufficient sureties shall be governed and controlled by the provisions of this section; provided, that nothing herein shall be construed to permit any corporation to go upon any bond of any State or county official in this State; provided, that each corporation organized under this section, shall publish in some newspaper of general circulation in the county where such company is organized, on the first day of February of each year, a statement of its condition on the

previous thirty-first day of December, showing under oath its assets and liabilities, and that a copy of this statement be filed with the commissioner of insurance, statistics and history, and a fee of twenty-five dollars is paid to that officer for filing the same, and that an examination of its affairs be made at any time by the commissioner of insurance, statistics and history, such examination to be at the expense of the company; provided, that guaranty and fidelity companies organized under the provisions of this section shall have a paid up capital stock of not less than one hundred thousand dollars, and shall keep on deposit with the State Treasurer money, bonds, or other securities, in an amount not less than fifty thousand dollars, said securities to be approved by the commissioner of agriculture, insurance, statistics and history, and that this amount be kept intact at all times.

(38) For establishing transportation companies, with power to buy, construct, lease, own, operate, maintain and convey all kinds of steamships, vessels and other water crafts, and may navigate the same between all parts of the globe, and upon rivers, and construct, buy, lease, own, maintain, operate and convey warehouses, docks and wharves, and to buy lease, receive, own, hold, and enjoy real and personal property necessary in the transaction of its business; to receive, purchase, hold, use and convey such rights, privileges, franchises and property, and to exercise beyond the jurisdiction of this State such power as may be granted to or conferred upon it by any foreign government, State or municipality; to have officers and agents, and to maintain offices at all points at which the company may do business; to act as principal or agent in buying or selling merchandise in all foreign countries; to carry passengers, freight, express and mail.

(39) The establishment of land companies to buy, own, sell and convey real estate in any State or foreign country; but such company shall only own such real estate in this State as may be necessary for its office.

(40) Any person or association of persons for the purpose of making, compiling and owning an abstract of titles to lands and liens of all character on any property, or any other abstract of records of this State or any county thereof, required by law to be recorded.

(41) The improvement of rivers and other waterways in this State, and to render the same navigable for steam vessels and other water crafts, with the authority to charge and collect tolls for the navigation of such rivers and waterways.

(42) For the protection and preservation and propagation of fish, oysters, and game.

(43) For the organization and maintenance of volunteer fire companies.

(44) For the protection of women and children and for the prevention of cruelty to animals.

(45) For erection and maintenance of sanitariums.

(46) For the organization of fire, marine, life, and life stock insurance companies.

(47) To construct steam and electric plows for breaking, cultivating and draining of lands.

(48) For the organization of laborers, workingmen, wage earners and farmers to protect themselves in their various pursuits.

(49) For the promoting and taking stock in manufacturing companies or corporations.

(50) For the organization of mutual fire, or storm or lightning insurance companies without an authorized capital; provided, that the members of said mutual fire insurance companies applying for such charters shall be resident citizens of the State of Texas, which fact shall be proven by the affidavit of a credible person accompanying the articles of incorporation when filed with the secretary of state, and such affidavit shall state that the person making the same is cognizant of the facts therein stated; provided, further, that no permit to transact business within this State shall be granted to any mutual fire, or storm or lightning insurance company without an authorized capital, incorporated under the laws of any other State.

(51) The raising, buying and selling of live stock.

(52) The establishment and carrying on of dairies and creamery companies.

(53) The construction, maintenance and operation of terminal railway companies, said companies to have no right to charge other railroads for terminal facilities beyond what may be prescribed by the railroad commission.

(54) To build, maintain and operate a line of railroad to mines, gins, quarries, manufacturing plants, breweries and mills, and to condemn land necessary for the right of way for such road, from and between such mine, gin, quarry, manufacturing plant or mill, and the nearest line of railroad. But no corporation created under the provisions of this section shall have the power to condemn private property until said corporation shall declare itself a public highway and common carrier, thus placing said road under the control of the railroad commission of this State.

(55) To excavate, maintain and operate drainage ditches, canals, and flumes, and to condemn land necessary for the right of way and machinery plants for such drainage ditches, canals and flumes.

(56) The stockholders of all private corporations created for profit and with an authorized capital stock under the provisions of this chapter shall be required to subscribe at least fifty per cent and pay in at least ten per cent of its authorized capital before it shall be authorized to do business in this State, and whenever the stockholders of any such company shall furnish satisfactory evidence to the Secretary of State that at least fifty per cent of its authorized capital has been subscribed, and ten per cent paid in, it shall be the duty of said officer to receive, file and record the charter of such company in the office of the Secretary of State upon application and the payment of all fees therefor, and to give his certificate showing the record of said charter, and authority to do business thereunder; provided, that foreign corporations obtaining permits to do business in this State shall show to the satisfaction of the Secretary of State that fifty per cent of their authorized capital stock has been subscribed, and that at least ten per cent of the authorized capital has been paid in, before such permit is issued.

Sec. 2. The near approach of the close of the present session of the legislature and the large number of bills now upon the calendar of each house, create an emergency, and an imperative public necessity exists,

that the constitutional rule requiring bills to be read on three several days be suspended, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Friday, the seventh day of May, A. D. 1897. but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

Takes effect 90 days after adjournment.

H. B. No. 528.]

CHAPTER 131.

An Act to amend Articles 579, 580, 586 and 615, Title XVIII, Chapter 2, of the Revised Civil Statutes of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas: That Articles 579, 580, 586 and 615, Title XVIII, Chapter 2, of the Revised Civil Statutes of the State of Texas, be so amended as hereafter to read as follows: .

Article 579. When a town or village may contain more than 500 and less than 10,000 inhabitants, it may be incorporated as a town or village in the manner prescribed in this chapter.

Article 580. If the inhabitants of such town or village desire to be so incorporated, at least twenty residents thereof, who would be qualified voters under the provisions of this chapter, shall file an application for that purpose in the office of the judge of the county court of the county in which the town or village is situated, stating the boundaries of the proposed town or village, and the name by which it is to be known if it be incorporated, and accompany the same with a plat of the proposed town or village, and including therein no territory except that which is intended to be used for strictly town purposes; provided, that if any town or village be situated on both sides of a line dividing two counties, application may be made to the judge of the county court of either county in which a portion of said town or village is located, in manner and form as is hereinbefore provided; provided, further, that in towns and villages that may be incorporated on territory in two counties, in the trial of the offense before the mayor or recorder for a violation of the laws of the State or the ordinances of the corporation, an appeal shall be to the county court of the county in which the offense may have been committed, and in cases which said mayor or recorder have not final jurisdiction, but when sitting as an examining court, parties brought before them on such examining court charged with an offense against the laws of the State, shall be bound over by them to the county court of the county in which said offense is alleged to have been committed, or the district court, as the case may be, and provided, that a new election shall not be ordered in less than one year.

Article 586. The county judge shall, within twenty days after the receipt of the returns, make an entry upon the records of the commissioner's court, that the inhabitants of the town or village are incorpo-

rated within the boundaries thereof, which shall also be designated in the entry, and a certified copy of such entry, together with the plat of the town or village, shall thereupon be recorded in the proper record of deeds of such county.

Article 615. When twenty-five of the qualified voters of any incorporated town or village shall desire the abolishment of such corporation, they may petition the county judge to that effect, who shall thereupon order an election to be held in such town or village, as in the case of its incorporation, and if there be a majority of the voters of said corporation, voting at such election in favor of abolishing such corporation, the county judge shall declare the corporation abolished, and enter an order to that effect upon the minutes of the commissioners' court; and from and after the date of such order the said corporation shall cease to exist; provided, nothing in this act shall be so construed as to repeal or otherwise affect any laws now upon the statutes of this State providing for the incorporation of towns and villages for school purposes; said towns and villages having not less than 200 inhabitants.

Sec. 2. The near approach of the close of the present session of the legislature and the fact that there is now no law in Texas providing for the abolition of town and village corporations by a majority of the voters therein, creates an imperative public necessity that the rule requiring bills to be read on three several days in each house be suspended and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act passed the house by a vote of yeas 76, nays 17; and passed the Senate by a two-thirds vote, yeas 24, nays none.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Friday, the seventh day of May, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Maden, Secretary of State.]

H. B. No. 442.]

CHAPTER 132.

An Act to amend Article 4908, Title CI, of the Revised Civil Statutes of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas: That Article 4908, of the Revised Civil Statutes of the State of Texas, be amended so as to hereafter read as follows:

Article 4908. There shall be elected, at each general election, by the qualified voters of each justice's precinct, a constable for such precinct, who shall hold his office for the term of two years, and until his successor is elected and qualified; provided, that when in any such justice's precinct there may be a city of eight thousand or more inhabitants, such constable may appoint no more than two deputies, who shall qualify as required of deputy sheriffs.

Sec. 2. Be it further provided, that in cities and towns of twenty-five hundred (2500) or more inhabitants, said constable may appoint no

more than one deputy, who^l shall qualify in such manner as is required by law.

Sec. 3. That the near approach of the close of this session, and large amount of business remains to be disposed of before the final adjournment, creates an imperative public necessity and emergency which authorize the suspension of the rule requiring bills to be read on three several days; and such rule is hereby suspended, and the same take effect from and after its passage, and it is so enacted.

[Note.—The foregoing act passed the House by a two-thirds vote, yeas 86, nays none; and passed the Senate by a two-thirds vote, yeas 23, nays none.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Saturday, the eighth day of May, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

H. B. No. 713.]

CHAPTER 133.

An Act to appropriate the sum of fifteen thousand dollars, or so much thereof as may be necessary to pay the per diem of members, officers and employees of the Twenty-fifth Legislature of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas: That the sum of fifteen thousand dollars, or so much thereof as may be necessary, is hereby appropriated for the payment of the per diem pay of the members, officers and employees of the Twenty-fifth Legislature of the State of Texas.

Sec. 2. The certificate of the Secretary of the Senate, approved by the President thereof, or of the Chief Clerk of the House, approved by the Speaker thereof, shall be sufficient evidence to the Comptroller upon which he shall audit the claims and issue his warrants upon the Treasurer for the respective amounts.

Sec. 3. The fact that the sum heretofore appropriated for this purpose has now been completely exhausted, creates an emergency and imperative public necessity for the suspension of the constitutional rule requiring bills to be read on three several days, and that this act take effect from and after its passage, and it is so enacted.

Approved, May 20, 1897.

[Note.—The foregoing act passed the House by a two-thirds vote, yeas 89, nays 5; and passed the Senate by a two-thirds vote, yeas 24, nays 2.]

S. B. No. 79.]

CHAPTER 134.

An Act to amend Article 2640, of the Revised Civil Statutes of the State of Texas, relating to loaning money of wards by their guardians.

Section 1. Be it enacted by the Legislature of the State of Texas: That Article 2640 of the Revised Civil Statutes of the State of Texas, be so amended as to hereafter read as follows:

Article 2640. When the guardian loans the money he shall take the note of the borrower, the same to be secured by mortgage with power of sale on unincumbered real estate situated in this State, worth at least double the amount of such note and interest, or on collateral notes secured by vendors' lien notes, as collateral, or may purchase vendors' lien notes; provided, that at least one-half has been paid on the land for which said notes are given; and he shall not deliver such money until such note and security have been taken and approved by the county judge of the county in which the guardianship is pending, which approval shall be by an order of such judge entered upon the minutes of his court, either in term time or vacation; provided, nothing herein contained shall relieve the county judge from responsibility on his bond as now provided by law.

Sec. 2. The importance of the legislation proposed in this bill, and crowded condition of the calendar, and the near approach of the close of the session, create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read upon three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act passed the Senate by a two-thirds vote, yeas 24, nays 1; and having passed the House, with amendments, vote not given, the Senate concurred in the House amendments, vote not given.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Monday, the tenth day of May, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

S. B. No. 292.]

CHAPTER 135.

An Act making it unlawful for any fire, or fire marine, or marine insurance company, which is legally licensed to transact the business of fire and marine insurance in this State, to place or cause to be placed, to write or cause to be written, any contract or policy of insurance against loss by fire or the perils of the sea on any property in this State, except through legally authorized and licensed agents resident in the State, and prescribing penalties for violation of same, and to further prescribe conditions to be complied with by any fire, or fire and marine, or marine insurance company, before it shall be licensed or relicensed by the Commissioner to do business in this State.

Section 1. Be it enacted by the Legislature of the State of Texas: That all fire, or fire and marine, or marine insurance companies which are legally authorized to do business in this State through legally commissioned and licensed agents, resident in this State, shall not make contracts of fire or marine insurance on property within the borders of this State, or sign or countersign or deliver any policy of insurance, save through regularly commissioned and licensed local agents of such companies in Texas; provided, however, that this act shall not apply to property owned by railroad companies or other common carriers; and provided, further, that upon oath made in writing by any person that he can not procure insurance on property through such local agents in Texas, it shall be lawful for any insurance company not having an agent in Texas to insure property of any person upon application of said person upon his filing said oath with the county clerk of the county in which such person resides.

Sec. 2. That before a certificate or license to any fire, or fire and marine, or marine insurance company is issued, authorizing it to transact the business of fire or marine insurance in this State, the insurance commissioner shall require, in every case, in addition to the other requirements already made and provided for by law, that each and every such fire, or fire and marine, or marine insurance company shall file with him an affidavit that it has not violated any of the provisions of this act.

Sec. 3. That whenever the insurance commissioner in his judgment has good reason to believe any fire, or fire and marine, or marine insurance company has violated any of the provisions of this act, he is authorized, and it is hereby made his duty, at the expense of such company, to examine at the head office, located within the United States of America, all books, records and papers of such company, and also any officers thereof, under oath, as to such violation or violations.

Sec. 4. That any fire, or fire and marine, or marine insurance company violating any provision of this act shall forfeit the right to do business in this State for the unexpired term for which it was originally licensed, and for twelve months next following thereafter; and the insurance commissioner shall immediately revoke the license already issued to any such company to do business in this State, and publish notice of such revocation as required by law.

Sec. 5. The fact that the practice of some companies in writing business through other channels than through the medium of their duly appointed local agents in this State not only deprives the local agents of the commissions but withholds the tax required by law to be paid on the gross premium receipts to the State, creates a public necessity and an

emergency which requires this act to take effect immediately, and the rules requiring bills to be read on three several days should be suspended, and are hereby suspended, and this act shall take effect and be in force from and after its passage.

Sec. 6. That all laws and parts of laws in conflict with the provisions of this act be and they are hereby repealed.

[Note.—The foregoing act passed the Senate by a two-thirds vote, yeas 23, nays none; and having passed the House with amendments, vote not given, the Senate concurred in the House amendments, vote not given.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Monday, the tenth day of May, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

S. B. No. 267.]

CHAPTER 136.

An Act to amend Article 1706, of the Revised Civil Statutes of the State of Texas, regulating the place of holding elections in cities and towns.

Section 1. Be it enacted by the Legislature of the State of Texas: That Article 1706, of the Revised Civil Statutes of the State of Texas, be so amended as to hereafter read as follows:

Article 1706. In each city having more than ten thousand inhabitants according to the last preceding census of the United States, each ward shall constitute an election precinct; provided, that the commissioners' courts of the several counties may and it shall be their duty to divide any such ward into as many election precincts as they may deem proper; and provided, further, that cities, towns, and villages having ten thousand inhabitants or less, shall not necessarily constitute a separate election precinct, except in elections pertaining solely to the affairs of said city, town or village.

Sec. 2. The near approach of the close of the present session creates an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Monday, the tenth day of May, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

Takes effect 90 days after adjournment.

H. B. No. 580.]

CHAPTER 137.

An Act to prescribe the time of holding the terms of the District Court in the 24th Judicial District of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas: That the terms of the district court of the 24th judicial district of Texas shall hereafter be held in the several counties therein as follows, viz.:

In the county of Bee, on the second Monday in February and the first Monday in September, and may continue in session three weeks.

In the county of Karnes, on the third Monday after the second Monday in February, and the first Monday in September, and may continue in session three weeks.

In the county of Goliad, on the sixth Monday after the second Monday in February, and the first Monday in September, and may continue in session three weeks.

In the county of Refugio, on the ninth Monday after the second Monday in February, and the first Monday in September, and may continue in session one week.

In the county of Calhoun, on the tenth Monday after the second Monday in February, and the first Monday in September, and may continue in session one week.

In the county of Victoria, on the eleventh Monday after the second Monday in February, and the first Monday in September, and may continue in session four weeks.

In the county of De Witt, on the fifteenth Monday after the second Monday in February, and the first Monday in September, and may continue in session until the business is disposed of.

Sec. 2. That all process and writs issued or served before this act goes into effect, returnable to the district courts in said judicial district, shall be considered returnable to said courts in accordance with the terms as prescribed by this act, and all such process is hereby legalized; and all grand and petit juries drawn and selected under existing laws in any of the counties of said judicial district shall be considered lawfully drawn and selected for the next terms of the district court held in said counties, respectively, after this act takes effect, and all such process is hereby legalized and validated.

Sec. 3. The importance of the passage of this act to the people of the various counties of the said judicial district, the crowded condition of the calendars of each house, and the near approach of the close of the present session of the legislature, create an imperative public necessity and emergency requiring that the constitutional rule that bills be read on three several days in each house be suspended, and the said rule is therefore suspended, and this bill is put upon its third reading and final passage, and it is so enacted.

Approved, May 22, 1897.

[Note.—The foregoing act passed the House by a two-thirds vote, yeas 86, nays none; and passed the Senate by a two-thirds vote, yeas 24, nays none.]

S. B. No. 95.]

CHAPTER 138.

An Act to amend Article 976, Chapter 8, Title 27, of the Revised Civil Statutes of the State of Texas, relating to payment of costs and returning mandates in the supreme court.

Section 1. Be it enacted by the Legislature of the State of Texas: That Article 976, Chapter 8, Title 27, of the Revised Civil Statutes of Texas, be amended so as to hereafter read as follows:

Article 976. The judgment of said court shall be final at the expiration of fifteen days from the rendition thereof, when no motion for rehearing has been filed, and upon the rendition of final judgment the clerk of the supreme court upon payment of costs shall issue the mandate in the case; provided, that if the party against whom the said costs are adjudged shall make affidavit of his inability to pay the same or give security therefor, he may apply to the supreme court for an order to require the clerk of said court to issue the said mandate, which motion shall be sustained unless the clerk of the court or any party to the record shall controvert the truth of said affidavit and satisfy the court that said motion should not be granted.

If for any cause the said court should set aside its judgment after the mandate has been issued, the clerk of the supreme court shall at once notify the party to whom the mandate was directed to return it at once. All mandates to the said court shall issue to the court in which the original judgment was rendered.

Sec. 2. The fact that there is no provision under the existing law for the issuance of mandates from the supreme court except upon the payment of costs, works a great hardship upon many deserving but destitute litigants, and many mandates are now held in the supreme court owing to the pecuniary distress and inability of the parties who are required to pay for them before they can issue, and in order to make effective the principle that pervades our system of law, that the courts shall be, at all times, open to the redress of grievances, to the poor as well as to the rich, create an emergency, and a public necessity exists, that the constitutional rule requiring bills to be read on three several days be, and the same is hereby suspended, and that this act take effect and be in force from and after its passage.

Approved, May 22, 1897.

[Note.—The foregoing act passed the Senate by a two-thirds vote, yeas 21, nays none; and passed the House by a vote of yeas 78, nays 8.]

Takes effect 90 days after adjournment.

H. B. No. 700.]

CHAPTER 139.

An Act to fix the time for holding the courts in the Forty-Sixth Judicial District, and to repeal all laws in conflict therewith.

Section 1. Be it enacted by the Legislature of the State of Texas: That the District Court shall be held in the counties composing the Forty-sixth Judicial District each year, as follows:

In the County of Wilbarger on the first Mondays in February and September, and may continue in session four weeks.

In the County of Hardeman, on the fourth Mondays after the first Mondays in February and September, and may continue in session three weeks.

In the County of Foard, on the seventh Mondays after the first Mondays in February and September, and may continue in session one week.

In the County of Collingsworth, on the eighth Mondays after the first Mondays in February and September, and may continue in session one week.

In the County of Childress, on the eleventh Mondays after the first Mondays in February and September, and may continue in session two weeks.

In the County of Hall, on the thirteenth Mondays after the first Mondays in February and September, and may continue in session two weeks, or until all the business is disposed of.

Sec. 2. That all process issued or served before this act goes into effect, returnable to the District Courts in said Judicial District, shall be returnable to said courts as fixed by the terms of this act; and said process is hereby legalized and validated, and all grand and petit jurors selected and drawn under existing laws in any of the counties of said judicial district shall be considered lawfully drawn and selected for the next term of the District Court of the respective counties held after this act takes effect, and all appearance bonds and recognizances taken in and for said courts shall bind the parties therein obligated to appear at the next term of such court held under this act.

Sec. 3. That all laws in conflict with this act be and the same are hereby repealed.

Approved, May 22, 1897.

Takes effect 90 days after adjournment.

H. B. No. 704.]

CHAPTER 140.

An Act to place Comal County in the Twenty-Second Judicial District, and to fix the time for holding court in the counties of said district.

Section 1. Be it enacted by the Legislature of the State of Texas: That paragraph Twenty-two of Article 22 of Title Four of the Revised Statutes of 1895, of the State of Texas, shall be so amended as hereafter to read as follows:

The Twenty-second Judicial District shall be composed of the coun-

ties of Austin, Fayette, Caldwell, Hays, and Comal; and the District Courts shall be held therein annually, as follows:

In the County of Comal, on the fourth Monday in January, and the third Monday in August, and may continue in session three weeks.

In the county of Hays, on the seventh Monday after the first Monday in January, and the sixth Monday after the first Monday in August, and may continue in session four weeks.

In the County of Caldwell, on the eleventh Monday after the first Monday in January, and on the tenth Monday after the first Monday in August, and may continue in session four weeks.

In the County of Fayette, on the fifteenth Monday after the first Monday in January, and on the fourteenth Monday after the first Monday in August, and may continue in session eight weeks.

In the County of Austin, on the twenty-third Monday after the first Monday in January, and on the twenty-second Monday after the first Monday in August, and may continue in session four weeks.

Sec. 2. All laws and parts of laws in conflict with this act be and the same are hereby repealed.

Sec. 3. The near approach of the close of the present session of the Legislature, and the large number of bills now upon the calendar of each house, creates an emergency, and an imperative public necessity exists, that the constitutional rule requiring bills to be read on three several days in each house be suspended, and it is so enacted.

Approved, May 22, 1897.

Takes effect 90 days after adjournment.

H. B. No. 698.]

CHAPTER 141.

An Act to amend Article 22 of the Revised Statutes of 1895, so as to change the time of holding the terms of the District Courts in Gregg and Upshur Counties, and to extend the time of holding Court in Gregg County, Texas.

Section 1. Be it enacted by the Legislature of the State of Texas: That Article 22 of the Revised Statutes of 1895, be amended so as to hereafter read as follows:

7. The Seventh Judicial District shall be composed of the counties of Upshur, Gregg, Smith, Van Zandt and Wood, and the District Courts therein shall be held as follows:

In the County of Smith on the first Monday of February and September of each year, and may continue in session seven weeks.

In the County of Van Zandt, on the seventh Monday after the first Monday in February and September of each year, and may continue in session four weeks.

In the County of Wood, on the eleventh Monday after the first Monday in February and September of each year, and may continue in session three weeks.

In the County of Upshur, on the second Monday in January, and on the eighteenth Monday after the first Monday in February, and may continue in session three weeks.

In the County of Gregg, on the fourteenth Monday after the first Monday in September and February, and may continue in session four weeks.

Sec. 2. The near approach of the close of the session and the crowded condition of the dockets of the District Court of Gregg County, demanding an extension of the time of holding the District Court therein, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended and this bill put upon its third reading and final passage, and it is so enacted.

Approved May 22, 1897.

Takes effect 90 days after adjournment.

S. H. B. No. 603.]

CHAPTER 142.

An Act to amend Articles 5068, 5076, 5098 and 5130, Title CIV, Chapter 3, of the Revised Civil Statutes of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas: That Articles 5068, 5076, 5098 and 5130, Title CIV, Chapter 3, of the Revised Civil Statutes of the State of Texas, be amended so as hereafter to read as follows:

Article 5068. All property, real and personal, except such as is required to be listed and assessed otherwise, shall be listed and assessed in the county where it is situated, and all personal property subject to taxation and temporarily removed from the State or county, shall be listed and assessed in the county of the residence of the owner thereof, or in the county where the principal office of such owner is situated.

Article 5076. Such statement shall truly and distinctly set forth:

1. The name of the owner.
2. The abstract number.
3. The number of the survey.
4. The name of the original grantee and the certificate.
5. The number of acres and the value of the land.
6. The number of the lot or lots, the number of the block, and the name of the city or town, and the value of the lots.
7. The number of miles of railroad in the county, and the value of the railroads and appurtenances.
8. The number of miles of telegraph in the county, and the value of telegraph and appurtenances in the county.
9. Number and amount of land certificates, and value thereof.
10. Number of horses and mules, and the value thereof.
11. Number of cattle, and value thereof.
12. Number of jacks and jennets, and value thereof.
13. Number of sheep, and value thereof.
14. Number of goats, and value thereof.
15. Number of hogs and dogs, and value thereof.
16. Number of carriages, buggies, wagons, or bicycles, of whatever kind, and value thereof.
17. Number of sewing machines and knitting machines, and value thereof.

18. Number of clocks and watches, and value thereof.
19. Number of organs, melodeons, pianofortes, and all other musical instruments of whatever kind, and value thereof.
20. The value of household and kitchen furniture over and above the amount of two hundred and fifty dollars.
21. Office furniture, and the value thereof.
22. The value of gold and silver plate.
23. The value of diamonds and jewelry.
24. Every annuity or royalty, the description and value thereof.
25. Number of steamboats, sailing vessels, wharf boats, barge, or other water craft, and value thereof.
26. The value of goods, wares and merchandise of every description which such person is required to list as a merchant, on hand on the first day of January of each year.
27. Value of materials and manufactured articles which such person is required to list as a manufacturer.
28. Value of manufacturers' tools, implements and machinery other than boilers and engines, which shall be listed as such.
29. Number of steam engines, including boilers, and value thereof.
30. Amount of money, of bank, banker, broker or stock jobber.
31. Amount of moneys other than of bank, banker, broker, or stock jobber.
32. Amount of credits other than bank, banker, broker, or stock jobber.
33. Amount and value of bonds and stocks other than United States bonds.
34. Amount and value of shares of capital stock companies and associations not incorporated by the laws of this State.
35. Value of all property of companies and corporations other than property hereinbefore enumerated.
36. Value of stock and furniture of saloons, hotels and eating houses.
37. Value of every billiard, pigeon hole, bagatelle, or other similar tables, together with the number thereof.
38. Every franchise, the description and value thereof.
39. Value of all other property not enumerated above; and all property enumerated in this article shall be taxable, whether in this State on the first day of January or temporarily removed therefrom.

Article 5098. The assessor of taxes shall also require each person rendering a list of taxable property to him for taxation under the assessment laws to subscribe to the following oath or affirmation, which shall be written or printed at the bottom of each inventory, to-wit: "I, (filling the blank with the name of the person subscribing), do solemnly swear (or affirm) that the above inventory rendered by me contains a full, true and complete list of all taxable property owned or held by me in my own name (or for others as the case may be, naming the person or firm for whom he rendered the list) in this county, subject to taxation in this county, and personal property not in this county subject to taxation in this county by the laws of this State, on the first day of January, A. D. 18— (filling the blank with the year), and that I have true answers made to all questions propounded to me touching the same, so help me God."

Article 5130. The assessor of taxes shall, on or before the first day

of August of each year for which the assessment is made, return his rolls or assessment books of the taxable property rendered to him or listed by him for that year, after they have been made in accordance with the provisions of this title, to the county board of equalization, verified by his affidavit, substantially on the following form:

THE STATE OF TEXAS, }
County. } I,, assessor of

..... county, do solemnly swear that the rolls (or books) to which this is attached contain a correct and full list of the real and personal property subject to taxation in (fill the blank with the name of the county) county, so far as I have been able to ascertain the same; that I have sworn every person listing property to me in the county, or caused the same to be done in manner and form as provided by law, and that the assessed value set down in the proper column opposite the several kinds and descriptions of property is the true and correct valuation thereof as ascertained by law, and the footings of the several columns in said books and the tabular statement returned is correct, as I verily believe.

Sec. 2. Owing to the importance of this bill in securing additional revenues to the State, and the crowded condition of the docket, and the near approach of the close of the session, an emergency exists, and an imperative public necessity is created, requiring that the constitutional rule which requires bills to be read on three several days be suspended, and that this bill be passed upon its third reading and final passage.

Approved May 22, 1897.

Takes effect 90 days after adjournment.

H. B. No. 601.]

CHAPTER 143.

An Act to provide for the disorganization of the county of Loving, in the State of Texas, and to attach said county to the county of Reeves for judicial and other purposes, and to provide for the assessment and collection of taxes in said county, and for the payment of the outstanding indebtedness of said county.

Whereas, the county of Loving as it now exists is in a disorganized condition, having no county officials resident within the limit of said county, and no taxes have been assessed and collected in said county for the years of 1895 and 1896, and a portion of the taxes assessed for the years of 1893 and 1894 remain uncollected, therefore

Section 1. Be it enacted by the Legislature of the State of Texas: That said county of Loving be and the same is hereby disorganized, and said county is hereby attached to the county of Reeves for judicial and other purposes, until such time as the said [county] shall resume an organized state.

Sec. 2. The County Commissioners' Court of Reeves County shall hereafter levy a sufficient annual tax, general and special, upon all property subject to taxation, situated in the County of Loving, to liquidate the indebtedness now existing against said county, which taxes shall be assessed and collected in the manner now provided by law for the assess-

ment and collection of taxes in the unorganized counties of this State; provided, also, that all taxes due the State of Texas and such as may be levied for county purposes as herein provided, upon all property situated in said county, for the present year, and for all previous years during which such taxes have not been paid, shall be assessed and collected by the officers charged by law with such duty, to the same effect as though Loving County had at all times been an [un]organized county attached to the said County of Reeves.

Sec. 3. The Assessor and Collector of Taxes, and the County Treasurer of said County of Reeves are each hereby required to execute bonds in addition to those now given by them, in the sum of five thousand dollars each, for the faithful discharge of their respective duties under this act, which bonds shall be payable to the County Judge of Reeves County and be approved by the Commissioners' Court thereof, and shall be conditioned as required by law for like bonds to said Reeves County, reciting therein that the same are given for the use of Loving County; provided, that until bonds are given and approved, as herein required, said officers shall not assume to discharge the duties or be entitled to compensation for services rendered under this act; and provided, further, that all remedies upon and penalties for the breach or failure to give similar bonds under the laws of this State shall apply to said officers respectively.

Sec. 4. After giving bond as herein required, the said Assessor, Collector and Treasurer shall be held to the discharge of their duties under the law, and be entitled to receive compensation for their services by way of commissions, to the same effect and subject to the same limitations provided by law, as though said officers were acting for Loving County alone, and said officers shall make separate reports and settlements with the State, and with said Commissioners' Court, on account of Loving County, to the same effect as now required by law of each of them in the discharge of their duties as officers of Reeves County, and shall be liable to all penalties provided by law for failure to make such reports and settlements; provided, however, that the Treasurer of said Reeves County shall not be the custodian of moneys collected to pay the interest and sinking fund upon the bonded indebtedness of said Loving County, but shall be entitled to his lawful commissions thereon, nor shall he be required to give bond under this act, after all other debts known to exist against said county have been paid; and should any funds remain in his hands after payment of all known indebtedness against said county, he shall pay the same over to the State Treasurer, to be used in liquidating the bonded indebtedness of said county; and provided, further, that after all known debts against Loving County have been paid, outside of its bonded indebtedness, the amount of the additional bonds, to be given by the assessor, and collector of taxes, shall be fixed by the Commissioners' Court of said Reeves County, in any sum not less than double the amount of taxes to be collected upon said bonded indebtedness during the term of such official bonds.

Sec. 5. All moneys collected by the collector of taxes of Reeves County to pay interest and provide the sinking fund upon the bonded indebtedness of Loving County, shall be reported, accounted for, and paid to the Treasurer of the State of Texas in the same manner required by law upon taxes due the State, and such moneys shall be received and

paid out by the State Treasurer upon such bonded indebtedness, according to the terms thereof; provided, that the option retained to Loving County to pay said bonds before the maturity thereof may be exercised by the Commissioners' Court of Reeves County, and, with the consent of the holder or holders of any of said bonds, the same may be paid at any time, and provisions made therefor by the levy and collection of the full amount of special tax authorized by law for such purposes.

Sec. 6. That immediately upon the taking effect of this act, the funds now in the State Treasury to the credit of said Loving County, held by the State and apportioned or belonging to said Loving County, shall be paid over to the treasurer of Reeves County, to be held by him for the payment of Loving County's indebtedness as herein provided.

Sec. 7. That the several officers of Reeves County who are the proper custodians of the several books, papers, accounts, or other property of Reeves County, shall likewise be the proper custodians of such books, papers, accounts, or other property of Loving County, and the commissioners of Reeves County are hereby authorized and empowered to take the proper steps for the removal of such valuable property to the county seat of Reeves County to be delivered to the proper custodians thereof, and shall take all necessary steps by suit in the name of Loving County to recover back to said county all lands and other property properly belonging to it, which may have been wrongfully converted or disposed of by any person assuming to act for said county or otherwise; and the expenses thereof to be paid out of the first general revenue funds collected from the territory embraced by Loving County; and certified copies of all such books, documents, papers, or other matter, including certified copies of deeds, mortgages, deeds of trust, or other muniments of title to real estate or to personal property, given under the hand and seal of the proper officer of Reeves County shall have all the force and effect, and be admissible in evidence, in the same manner, and as fully as if the same had been given by the proper officer of Loving County.

Sec. 8. That the county judge of Reeves County shall, immediately after this act goes into effect, publish in some newspaper, published in Reeves County, if one be there published, and if not, then in some newspaper published in some adjoining county to Reeves County, a notice to all persons holding any claim or indebtedness against Loving County to present the same to the commissioners of Reeves County for approval or rejection, on or before the first day of December, 1897.

Sec. 9. That all parties now having any claims against or warrant or bond or indebtedness of Loving County shall on or before the first day of December, 1897, present the claim or indebtedness to the commissioners' court of Reeves County for rejection or approval; and the commissioners' court of Reeves County shall pass on all such claims, warrants, bonds, and indebtedness in the same manner and order as if they were the commissioners of Loving County, approving or rejecting the same in all respects as claims and debentures are now required to be presented for approval or rejection to commissioners' court.

Sec. 10. That whenever any claim or indebtedness above named shall have been rejected by the commissioners of Reeves County, the owners thereof may have all legal remedies in Reeves County, as fully as if the claim or indebtedness were against Reeves County, the judgment, order

or decree, to be against the assets of Loving County only, and to be paid by the proper funds realized upon the property of Loving County.

Sec. 11. That all existing indebtedness or claims against Loving County which have not been barred for more than two years after this act shall take effect, may be presented to the commissioners' court of Reeves County, on or before the first day of December, 1897, for a rejection or approval, and shall be passed upon by said commissioners' court in all respects as if presented at any time not earlier than two years prior to the time of presentation.

Sec. 12. That the commissioners' court of Reeves County, after the aforesaid claims have been filed with and approved by them as above provided, shall classify them as provided by law, and they shall levy a sufficient general and special tax as hereinbefore named, not to exceed the limit allowed by law, for each year, to pay all the indebtedness of each class so registered and approved by them, including the expenses authorized by this act; and where legal bonds have been issued to create a sinking fund, keeping each class and the funds belonging to it separate and distinct from every other fund, and out of each fund to pay the claims against such fund only. Where claims filed with and approved by the commissioners' court of Loving County are also filed with and approved by the commissioners' court of Reeves County, they shall be paid in the order registered by and approved in Loving County; provided, they are filed on or before December the 1st, 1897; otherwise, they shall be paid in the order registered by and approved by the Reeves County commissioners.

Sec. 13. All laws and parts of laws in conflict with the provisions of this act are hereby repealed.

Sec. 14. The fact that there can be no taxes assessed or collected, and no court either criminal or civil held in Loving County under the existing condition of affairs, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect from and after its passage, and it is so enacted.

[Note.—The foregoing act passed the House by a two-thirds vote, yeas 86, nays 1; and passed the Senate by a two-thirds vote, yeas 23, nays none.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Wednesday, the twelfth day of May, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature. —Jno. H. Culom, Acting Secretary of State.]

S. B. No. 158.]

CHAPTER 144.

An Act to amend Article 3328, Chapter 4, Title 66, of the Revised Statutes of the State of Texas, and Article 4651, Chapter 3, Title 96, of the Revised Statutes of the State of Texas, by providing for the place of record of certain written contracts for the conditional sale, lease or hire of railroad equipment and rolling stock.

Section 1. Be it enacted by the Legislature of the State of Texas: That article 3328, chapter 4, title 66, of the Revised Statutes of the State of Texas, and article 4651, chapter 3, title 96, of the Revised Statutes of the State of Texas, be and the same are hereby amended so as to read as follows:

Article 3328. Every chattel mortgage, deed of trust, or other instrument of writing, intended to operate as a mortgage of or lien upon personal property, which shall not be accompanied by an immediate delivery and be followed by and actual and continued change of possession of the property mortgaged or pledged by such instrument, shall be absolutely void as against the creditors of the mortgagor or person making same, and as against subsequent purchasers and mortgagees or lien-holders in good faith, unless such instrument or a true copy thereof shall be forthwith deposited with and filed in the office of the county clerk of the county where the property shall then be situated, or if the mortgagor or person making the same be a resident of this State, then, of the county of which he shall at that time be a resident; provided, that written contracts for the conditional sale, lease or hire of railroad equipments and rolling stock, by which the purchase money is therein agreed to be paid at any time or times after the date of such contract, with a reservation of title or lien in the vendor, lessor or bailor until the same has been fully paid, shall be recorded in the office of the Secretary of State, in a book of records to be kept by him for that purpose; and on payment in full of the purchase money and the performance of the terms and conditions stipulated in any such contract, a declaration in writing to that effect may be made by the vendor, lessor or bailor, or his or its assignee, which declaration may be made on the margin of the record of the contract, duly attested, or it may be made by a separate instrument to be acknowledged by the lessor, vendor or bailor, or his or its assignee, and recorded as aforesaid, and for such services the Secretary of State shall be entitled to a fee of five dollars for recording each of said contracts and each of said declarations, and a fee of one dollar for entering such declaration on the margin of the record.

Article 4651. Every deed, mortgage, or other writing respecting the title of personal property hereafter executed, which by law, ought to be recorded, shall be recorded in the clerk's office of the county court of that county in which the property shall remain; and if afterwards the person claiming title under such deed, mortgage or other writing shall permit any other person in whose possession such property may be to remove with the same or any part thereof out of the county in which the same shall be recorded, and shall not, within four months after such removal, cause the same to be recorded in the county to which such property shall be removed, such deed, mortgage, or other writing, for so long as it shall not be recorded in such last mentioned county, and for so

much of the property aforesaid as shall have been removed, shall be void as to all creditors and purchasers thereof for valuable consideration without notice; provided, that written contracts for the conditional sale, lease, or hire of railroad rolling stock and equipments by which the purchase money is therein agreed to be paid at any time or times after the date of such contract, with a reservation of title or lien in the vendor, lessor or bailor until the same has been fully paid shall be recorded in the office of the Secretary of State in a book of records to be kept by him for that purpose, and on payment in full of the purchase money and the performance of the terms and conditions stipulated in any such contract a declaration in writing to that effect may be made by the vendor, lessor or bailor, or his or its assignee, which declaration may be made on the margin of the record of the contract, duly attested, or it may be made by a separate instrument to be acknowledged by the lessor, vendor, or bailor, or his or its assignee, and recorded as aforesaid, and for such services the Secretary of State shall be entitled to a fee of five dollars for recording each of said contracts, and each of said declarations, and a fee of one dollar for entering such declaration on the margin of the record.

Sec. 2. The fact that the existing chattel mortgage law in such cases is a great public inconvenience, that the close of the present session of the Legislature is drawing near, and that the crowded condition of the calendar in both houses renders it impossible that this bill can be reached in the regular order, create an emergency, and an imperative public necessity exists requiring that the constitutional rule that all bills should be read on three several days in each house be suspended, and it is so suspended.

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Tuesday, the eleventh day of May, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Jno. H. Cul-
lison, Acting Secretary of State.]

Takes effect 90 days after adjournment.

S. B. No. 381.]

CHAPTER 145.

An Act to amend Article 1537, Chapter 2, Title 32, of the Revised Civil Statutes of Texas, adopted and established by the 24th Legislature, in regular session, 1895, relating to the powers and duties of commissioners' courts, authorized to audit, adjust and settle claims.

Section 1. Be it enacted by the Legislature of the State of Texas: That Article 1537, of the Revised Civil Statutes of Texas, adopted and established by the Twenty-fourth Legislature, in regular session, 1895, be amended so as to hereafter read as follows:

Article 1537. The said courts shall have power and it shall be their duty:

1. To lay off their respective counties into precincts, not less than four nor more than eight, for the election of justices of the peace, and constables, and shall fix the times and places of holding the various jus-

tices' courts in their counties, and shall establish places in such precincts where elections shall be held; also, shall establish justices' precincts and justices' courts for unorganized counties, as provided by law.

2. To establish public ferries whenever the public interest may require.

3. To lay out and establish, change, and discontinue public roads and highways.

4. To build bridges and keep the same in repair.

5. To appoint road overseers and apportion hands.

6. To exercise general control and superintendence over all roads, highways, ferries and bridges in their counties.

7. To provide and keep in repair court houses, jails and all necessary public buildings.

8. To audit, adjust, and settle all accounts against the county and direct their payment, and to audit, adjust, and settle all accounts and claims in favor of the county.

9. To provide for the support of paupers, and such idiots and lunatics as can not be admitted into the lunatic asylum, residents of their counties, who are unable to support themselves.

10. To provide for the burial of paupers.

11. To punish contempt by fine, not to exceed \$25, or by imprisonment not to exceed twenty-four hours, and in case of fine the party may be held in custody until the fine is paid.

12. To issue all such notices, citations, writs and process as may be necessary for the proper execution of the powers and duties imposed upon such court and to enforce its jurisdiction.

Sec. 2. The near approach of the close of the present session and the crowded condition of the calendar create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days should be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act passed the Senate by a two-thirds vote; and passed the House by a vote of yeas 74, nays 27.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Monday, the seventeenth day of May, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Jno. H. Cullom, Acting Secretary of State.]

S. B. No. 296.]

CHAPTER 146.

An Act to amend Chapter 14, Title 86, of the Revised Civil Statutes of 1895, by adding after Article 3993b, a new article to be numbered 3993c, providing for the organization of school districts in community counties, and validating such districts heretofore organized.

Section 1. Be it enacted by the Legislature of the State of Texas: That Chapter 14, of Title 86, of the Revised Statutes of 1895, be amended by adding after Article 3993b, a new article to be numbered 3993c, which shall read as follows:

Article 3993c. The citizens in any community or section of territory embraced in any community county may organize a school district in said community or section of territory, in the following manner: A petition asking for the organization of said district and giving the metes and bounds of the proposed district, shall be presented to the commissioners' court, and signed by a majority of the qualified voters of the proposed district, it shall adopt and enter on its record an order organizing said district, upon which said district shall acquire all the rights and become entitled to the privileges of districts in district counties, and the schools shall be conducted in the same manner; the intention of this article being to permit subdivisions of community counties to adopt the district system when the whole county does not wish to adopt it; provided, however, that no district shall be organized under this article containing exceeding thirty-six square miles of territory.

Sec. 2. Whereas, this section of the school law was inadvertently omitted from the Revised Statutes adopted by the 24th Legislature, and whereas, there are in existence numerous districts in community counties organized prior to and since the adoption of the Revised Statutes, be it enacted that districts heretofore organized in community counties are hereby in all respects validated.

Sec. 3. The near approach of the close of the session and the crowded condition of the calendar, and the fact that the districts mentioned in section 2 of this act are without legal protection, create an emergency and an imperative public necessity requiring that the constitutional rule requiring bills to be read on three separate days in each house be suspended, and that this bill take effect and be in force from and after its passage, and it is hereby so enacted.

[Note.—The foregoing act passed the Senate by a two-thirds vote, yeas 22, nays none; and passed the House, vote not given.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Friday, the twenty-first day of May, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Jno. H. Cullom, Acting Secretary of State.]

S. B. No. 231.]

CHAPTER 147.

An Act to amend Chapter Two, Title XXXII, of the Revised Civil Statutes of the State of Texas, by adding thereto an additional article to be entitled "Article 1547d."

Section 1. Be it enacted by the Legislature of the State of Texas: That Chapter Two, Title XXXII, of the Revised Civil Statutes of the State of Texas, be amended by adding thereto an additional article to be entitled "Article 1547d," and to read as follows:

Article 1547d. That it shall be the duty of the commissioners' courts of counties owning bridges, situated within the corporate limits of cities and towns, to keep the same in repair in the same manner as they are required by law to keep such bridges as are not so situated within the

limits of a city or town; provided, that this act shall not be held to affect or diminish the liability of town and city corporations for injuries caused by the defective condition of such bridges situated within the city limits.

Sec. 2. The fact that there is no law requiring commissioners' courts to keep in repair bridges owned by counties within cities and towns, and the near approach of the close of the session, creates an emergency, and an imperative public necessity exists for the suspension of the constitutional rule requiring bills to be read on three several days, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act passed both houses of the Legislature, but the vote is not given by number of yeas and nays in either house.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Friday, the twenty-first day of May, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Jno. H. Cullom, Acting Secretary of State.]

H. B. No. 651.]

CHAPTER 148.

An Act to prohibit the catching of fish, green turtle, loggerhead, terrapins or shrimps with seines, drag nets, fykes, set nets, gill nets, trammel nets, traps, dams, or weirs in any of the bays or navigable waters of this State, within the limits or within one mile of the limits of cities and towns, and to provide a penalty therefor.

Section 1. Be it enacted by the Legislature of the State of Texas: That from and after the passage of this act it shall be unlawful for any person to catch, or attempt to catch, any fish, green turtle, loggerhead, terrapin, or shrimp, in any of the bays or navigable waters of this State, within the limits or within one mile of the limits of any city or town in this State, with seines, drag nets, fykes, set nets, trammel nets, traps, dams, or weirs.

Sec. 2. Any one violating any of the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than twenty-five nor more than two hundred dollars.

Sec. 3. In all prosecutions under the provisions of this act, the identification of the boat from which such violation or violations occur shall be prima facie evidence against the owner, lessee, person or persons in charge, or master of such boat.

Sec. 4. The near approach of the end of the present session, the crowded condition of the calendar, and the fact that there is no law now in force in this State preventing the taking of fish by the means set out in this act within the limits of cities and towns within this State, creates an emergency, and an imperative public necessity exists for the suspen-

sion of the constitutional rule requiring bills to be read on three several days, and said rule is hereby suspended.

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Wednesday, the nineteenth day of May, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Jno. H. Cullom, Acting Secretary of State.]

Takes effect 90 days after adjournment.

S. H. B. No. 221.]

CHAPTER 149.

An Act to preserve and protect the wild game, birds, and wild fowl, of the State, and provide adequate penalties for the unlawful taking, slaughter, sale or shipment thereof, and to repeal all laws and parts of laws in conflict herewith.

Section 1. Be it enacted by the Legislature of the State of Texas: That all the wild deer, wild antelope, wild turkeys, wild ducks, wild geese and wild grouse, wild prairie chickens (pinnated grouse), wild Mongolian or English pheasants, wild quail or partridges, wild plover, snipe, and jack-snipe, found within the borders of this State, shall be and the same are hereby declared to be the property of the public.

Sec. 2. Whoever shall sell, or offer for sale, have in his possession for the purpose of sale, or whoever shall purchase or have in his possession after purchase, any wild deer or antelope killed in this State, or the carcass thereof, or the fresh hide thereof, or whoever shall sell or offer for sale, or have in his possession for the purpose of sale, or whoever shall purchase, or have in his possession after purchase, any of the game mentioned in Section 1 of this act, killed or taken within this State, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not less than ten nor more than one hundred dollars; provided, that the sale and purchase of the game mentioned in Section 1 of this act shall not be unlawful when said sale or purchase is made in the county where such game was killed or taken; provided, that nothing herein contained shall be construed to prohibit the sale or shipment of wild ducks and wild geese.

Sec. 3. The netting of quail or partridges at any season of the year is hereby prohibited; and any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than ten nor more than one hundred dollars.

Sec. 4. It shall be unlawful to destroy any wild geese or wild ducks by any means otherwise than by an ordinary gun, capable of being held to and shot from the shoulder, and whoever violates the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than ten nor more than one hundred dollars.

Sec. 5. It shall be unlawful for any person to kill, take or destroy any wild Mongolian or English pheasants, or antelope, for the space of five years next after this act takes effect, and any person violating the provisions hereof shall be deemed guilty of a misdemeanor, and upon con-

viction thereof shall be fined in any sum not less than ten nor more than one hundred dollars.

Sec. 6. It shall be unlawful for any person to kill, ensnare, or trap, or in any way destroy any wild deer in the period of time embraced between the first day of January and the first day of September in each year, or any wild turkeys in the period of time embraced between the first day of April and the first day of September in each year, or any prairie chickens (pinnated grouse) in the period of time embraced between the first day of February and the first day of August in each year, or any quail or partridge within the period of time embraced between the fifteenth day of March and the first day of October in each year; and it shall be unlawful for any person, at any time, to hunt deer or other game by aid of what is commonly known as a hunting lamp or lantern, or any other light used for the purpose of hunting at night; and after the space of five years next after this act takes effect, it shall be unlawful for any person to kill, ensnare, or trap, or in any way destroy any wild antelope in the period of time embraced between the first day of January and the first day of September in each year, or any Mongolian or English pheasants in the period of time embraced between the first day of February and the first day of August in each year, and the violation of any provision of this section shall be considered a misdemeanor, and upon conviction thereof the person offending shall be fined in any sum not less than ten nor more than one hundred dollars.

Sec. 7. It shall be unlawful for any express company, railroad company, or other common carrier, or the officers, agents, servants, or employees of the same, to receive for the purpose of transportation, or to transport, carry, or take beyond the limits of this State, or within this State, any animal, bird, or water fowl mentioned in Section 1 of this act; and it shall be unlawful for any person to transport, carry or take beyond the limits of this State any animal, bird, or fowl mentioned in Section 1 of this act; and whoever shall violate the provisions hereof shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than twenty-five nor more than one hundred dollars; provided, that each shipment shall constitute a separate offense, and that such express company, railroad company, or other common carrier, or their agents, servants, or employees, shall have the privilege of examining any suspected package for the purpose of determining whether such package contains any of the articles mentioned in Section 1 of this act; but this act shall not apply to the shipment or transportation of live Mongolian or English pheasants shipped for scientific or breeding purposes; provided, that nothing herein contained shall be construed to prohibit the sale or shipment of wild ducks and wild geese.

Sec. 8. Possession at any season of the year during which the game birds and wild fowls of this State are protected by the laws hereof, shall be prima facie evidence of the guilt of the person in possession thereof.

Sec. 9. That all laws and parts of laws in conflict herewith be and the same are hereby repealed.

Sec. 10. The near approach of the close of the present session of the Legislature, the crowded condition of the calendar, and the importance of protecting the wild game, birds and wild fowl of the State, create an emergency and an imperative public necessity requiring the suspension of the constitutional rule requiring bills to be read on three several days

in each house, and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved, May 27, 1897.

[Note.—The foregoing act passed the House, vote not given; and passed the Senate by a two-thirds vote, yeas 21, noes 5.]

H. B. No. 629.]

CHAPTER 150.

An Act to prevent the selling or trading of animals of the horse and mule species, known or suspected to be affected with glanders.

Section 1. Be it enacted by the Legislature of the State of Texas: If any person or persons shall trade or sell, or offer to trade or sell, any animal of the horse or ass species known or suspected to be affected with glanders, he shall be fined in any sum not less than five nor more than one hundred dollars, or imprisoned in the county jail not less than ten days nor more than ninety days.

Sec. 2. The fact that many cases of glanders are now prevalent throughout the State, and the further fact that horse dealers are carrying such diseased animals from county to county, spreading this and kindred diseases throughout the State, creates an emergency and imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect from and after its passage.

[Note.—The foregoing act passed the House by a vote of yeas 74, nays 26; and passed the Senate, vote not given.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Wednesday, the nineteenth day of May, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Jno. H. Cullom, Acting Secretary of State.]

S. B. No. 281.]

CHAPTER 151.

An Act to authorize towns and villages incorporated under the provisions of Chapter eleven, Title eighteen, of the Revised Civil Statutes, or by special charter, to condemn the right of way over and across the roadbed and right of way of any railway company within the limits of such town or village, when deemed necessary by such town or village for the purpose of opening, widening or extending the public streets of such towns or villages; to define the duties of railroad companies when their roadbeds and rights of way are condemned for street purposes by such towns and villages, and to prescribe a penalty for violations thereof.

Section 1. Be it enacted by the Legislature of the State of Texas: That any town or village in this State, incorporated under Chapter eleven Title eighteen, of the Revised Civil Statutes, or by special charter, shall have the right and they are hereby empowered to condemn the right of

way and roadbed of any railway company whose roadbed runs within the corporate limits of such towns or villages, when deemed necessary and so declared, by a majority vote of the board of aldermen, for the purpose of opening, widening or extending the streets of such town or village; provided, there is less than four railroad tracks.

Sec. 2. Whenever the board of aldermen of any town or village, incorporated as aforesaid, shall have passed an ordinance or resolution to open, widen or extend a street to any point within its corporate limits, and such street is to be opened, widened or extended over or across any railroad bed and right of way, if such town or village, and the company over whose roadbed and right of way such street is to be opened, widened or extended, can not agree as to the damages to be paid said railway company for the right of way over and across their roadbed and right of way, it shall be the duty of the mayor of such town or village to state in writing the point on said railroad right of way where said street is desired to be opened, widened, or extended, giving the width and length of that portion of the right of way of the railroad sought to be condemned, and describing it so that it can be clearly identified, the object for which it is sought to be condemned, the name and style of the railway company, and file the same with the county judge of the county in which such town or village is situated. Upon the filing of such written statement with the county judge the same proceedings shall be had for the purpose of condemning the right of way for the street that are now required by law for the condemnation of right of way for the benefit of railroad companies.

Sec. 3. It shall be the duty of every railroad company in this State to place and keep that portion of its roadbed and right of way over or across which any public street of any incorporated town or village may run in proper condition for the use of the traveling public, and in case of its failure to do so for thirty days after written notice given to the section boss of the section where such work or repairs are needed, by the town marshal of such town or village, it shall be liable to a penalty of twenty-five dollars for each and every week such railroad may fail or neglect to comply with the requirements of this act, recoverable in any court having jurisdiction of the amount involved, in a suit in the name of such town or village.

Sec. 3e. County Commissioners shall have the right, upon petition of twenty freeholders of any community or unincorporated town or city, to condemn roadbed of railroads for same purpose.

Sec. 4. There being no law of this State authorizing towns and villages incorporated under Chapter eleven, Title eighteen, of the Revised Civil Statutes, to condemn the right of way for street purposes, and obstructions to public streets in such towns and villages by railroads being insurmountable, thereby causing much inconvenience to the public, an imperative public necessity exists for the suspension of the constitutional rule requiring bills to be read on three several days, and that this act take effect and be in force from and after its passage, and it is, therefore, so enacted.

[Note.—The foregoing act passed the Senate by a two-thirds vote, yeas 21, nays 1; and passed the House, vote not given.]

[Note.—The foregoing act was presented to the Governor of Texas

for his approval, on Monday, the seventeenth day of May, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Jno. H. Cullom, Acting Secretary of State.]

S. B. No. 33.]

CHAPTER 152.

An Act to protect accountants, bookkeepers, artisans, craftsmen, factory operatives, mill operatives, servants, mechanics, quarrymen, common laborers, and farm hands; to provide a lien, and prescribe the time of payments, and in lawful money of the United States; and prescribing the rights of the assignees of such persons, and to repeal all laws in conflict with this act.

Section 1. Be it enacted by the Legislature of the State of Texas: That whenever any clerk, accountant, bookkeeper, artisan, craftsman, factory operative, mill operative, servant, mechanic, quarryman, or common laborer, farm hand, male or female, may labor or perform any service in any office, store, saloon, hotel, shop, mine, quarry, manufactory, or mill of any character, or on any farm, under or by virtue of any contract or agreement, written or verbal, with any person, employer, firm, corporation, or his, her or their agent or agents, receiver or receivers, trustee or trustees, in order to secure the payment of the amount due by such contract or agreement, written or verbal, the hereinbefore mentioned employes shall have a first lien upon all products, machinery, tools, fixtures, appurtenances, goods, wares, merchandise, chattels, or thing or things of value of whatsoever character that may be created in whole or in part by the labor of such persons or necessarily connected with the performance of such labor or service, which may be owned by or in the possession of the aforesaid employer, person, firm, corporation, or his, her or their agent or agents, receiver or receivers, trustee or trustees; provided, that the lien herein given to a farm hand shall be subordinate to the landlord's lien now provided by law.

Sec. 2. Whenever any person, employer, firm, corporation, his, her or their agent or agents, receiver or receivers, trustee or trustees, shall fail or refuse to make payments as hereinafter prescribed in this act, the said clerk, accountant, bookkeeper, farm hand, artisan, craftsman, operative, servant, mechanic, quarryman, or laborer, who shall have performed service of any character, shall make or have made duplicate accounts of such service, with amount due him or her for the same, and present or have presented, to aforesaid employer, person, firm or corporation, his, her or their agent or agents, receiver or receivers, trustee or trustees, one of the aforesaid duplicate accounts within thirty days after the said indebtedness shall have accrued. The other of the said duplicate accounts shall, within the time hereinbefore prescribed, be filed with the county clerk of the county in which said service was rendered, and shall be recorded by the county clerk in a book kept for that purpose. The party or parties presenting the aforesaid account shall make affidavit as to the correctness of the same. A compliance with the foregoing requirements in this section shall be necessary to fix and preserve the lien given under this act; and the liens of different persons shall take precedence in the order in which they are filed; provided, that all persons claiming the

benefit of this act shall have six months within which to bring suit to foreclose the aforesaid lien; and provided, further, that a substantial compliance with the provisions of this section shall be deemed sufficient diligence to fix and secure the lien hereinbefore given; provided, that any purchaser of such products from the owner thereof shall acquire a good title thereto, unless he has at the time of the purchase actual or constructive notice of the claim of such lien holder upon such products, said constructive notice to be given by record of such claim, as provided for in this act, or by suit filed.

Sec. 3. Under the operations of this act, all wages, if service is by agreement performed by the day or week, shall be due and payable weekly, or if by the month, shall be due and payable monthly. All payments to be made in lawful money of the United States.

Sec. 4. Any of the parties named in Section 1 of this act, may transfer or assign their rights hereunder, and their assignee or assignees shall have the same rights and privileges as are conferred upon such persons enumerated in Section 1.

Sec. 5. The lien created by this act shall cease to be operative after six months after the same is fixed, unless suit is brought within said time to enforce such lien.

Sec. 6. All laws and parts of laws in conflict with the provisions of this act, be and the same are hereby repealed; provided, that this act shall not be so construed as to repeal Chapter 2, of Title LXVI, of the Revised Civil Statutes of the State of Texas, relating to liens of mechanics, contractors, builders, and material men.

Sec. 8 [7]. It being important that the benefits of this act be realized at once, because the parties to be benefited by this act have no adequate protection under existing laws, creates an imperative public necessity that the constitutional rule requiring bills to be read on three several days should be suspended.

Approved, May 27, 1897.

Takes effect 90 days after adjournment.

H. B. No. 696.]

CHAPTER 153.

An Act to prohibit the taking of fish from the fresh waters, lakes and streams of this State, otherwise than by means of the ordinary hook and line and trot line, and to prohibit the sale or shipping of game fish in this State, and to provide penalties for the violation thereof.

Section 1. Be it enacted by the Legislature of the State of Texas: That if any person shall at any time during the year take, catch, ensnare or entrap any fish, except minnows for bait, by means of nets, traps, poison or dynamite, or in any other manner than with the ordinary hook and line or trot line, in any of the fresh waters, lakes, and streams of this State, such person shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than twenty-five dollars, and not more than one hundred dollars; provided, that minnows for bait shall not be taken by poison or dynamite.

Sec. 2. It shall be unlawful for any person to sell, or offer to sell, or

ship or offer to ship, any game fish, including white perch, trout, or bass, taken from any of the fresh waters, lakes and streams in this State, and whoever shall violate the provisions of this section shall be deemed guilty of a misdemeanor, and on conviction shall be fined not less than twenty-five dollars, and not more than one hundred dollars; provided, that the following counties be and they are hereby exempted from the operation of Section 2 of this act: Andrews, Angelina, Aransas, Archer, Armstrong, Atascosa, Austin, Bailey, Bandera, Bastrop, Baylor, Bee, Bell, Bexar, Blanco, Borden, Bosque, Bowie, Brazoria, Brazos, Brewster, Briscoe, Brown, Buchel, Burleson, Burnet, Caldwell, Callahan, Cameron, Carson, Cass, Castro, Chambers, Childress, Clay, Cochran, Coke, Coleman, Collin, Collingsworth, Colorado, Comal, Comanche, Concho, Cooke, Coryell, Cottle, Crane, Crockett, Crosby, Dallam, Dallas, Dawson, Deaf Smith, Denton, De Witt, Dickens, Dimmit, Donley, Duval, Eastland, Ector, Edwards, Ellis, El Paso, Encinal, Erath, Falls, Fannin, Fayette, Fisher, Floyd, Foard, Foley, Ft. Bend, Freestone, Frio, Gaines, Galveston, Garza, Gillespie, Glasscock, Goliad, Gonzales, Gray, Grayson, Greer, Gregg, Grimes, Guadalupe, Hale, Hall, Hamilton, Hansford, Hardeman, Hardin, Harris, Hartley, Haskell, Hays, Hemphill, Henderson, Hidalgo, Hill, Hockley, Hood, Howard, Hunt, Hutchinson, Irion, Jackson, Jasper, Jeff Davis, Jefferson, Johnson, Jones, Karnes, Kaufman, Kendall, Kent, Kerr, Kimble, King, Kinney, Knox, Lamar, Lamb, Lampasas, La Salle, Lavaca, Lee, Leon, Liberty, Limestone, Lipscomb, Live Oak, Loving, Lubbock, Lynn, Madison, Martin, Mason, Matagorda, Maverick, McCulloch, McLennan, McMullen, Medina, Menard, Midland, Milam, Mills, Mitchell, Montague, Montgomery, Moore, Morris, Motley, Nacogdoches, Navarro, Newton, Nolan, Nueces, Ochiltree, Oldham, Orange, Palo Pinto, Panola, Parker, Parmer, Pecos, Polk, Potter, Presidio, Rains, Randall, Reeves, Refugio, Roberts, Rockwall, Runnells, Rusk, Sabine, San Augustine, San Jacinto, San Patricio, San Saba, Schleicher, Scurry, Shackelford, Shelby, Sherman, Smith, Somervell, Starr, Stevens, Sterling, Stonewall, Sutton, Swisher, Tarrant, Taylor, Terry, Throckmorton, Tom Green, Travis, Trinity, Tyler, Upshur, Upton, Uvalde, Val Verde, Van Zandt, Walker, Waller, Ward, Washington, Webb, Wharton, Wheeler, Wichita, Wilbarger, Williamson, Wilson, Winkler, Wise, Wood, Yoakum, Young, Zapata, Zavala; provided, further, that the counties of Bell, Hamilton, Coryell, Bosque and Lampasas, be exempted from the operation of Section 1 of this act, except during the months of February, March, April, May, and June; provided, further, that the counties of Delta, Hopkins, Franklin, Titus, Camp, and Red River be exempt from the provisions of this act.

Sec. 3. All laws and parts of laws in conflict herewith are hereby repealed.

Sec. 4. The near approach of the close of the present session of the legislature, and the crowded condition of the calendar, and the importance of protecting the game fish in this State, create an emergency and an imperative public necessity requiring the suspension of the constitutional rule requiring bills to be read on three several days, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act passed the House by a two-thirds vote,

yeas 86, nays 1; and passed the Senate by a two-thirds vote, yeas 21, nays 6.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Friday, the twenty-first day of May, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—Jno. H. Cullom, Acting Secretary of State.]

H. B. No. 263.]

CHAPTER 154.

An Act to prohibit persons, firms or corporations engaged in running pool or billiard tables in a public place, or for profit, knowingly permitting minors in their places of business without the written consent of their parents or guardians, and to provide a penalty therefor.

Section 1. Be it enacted by the Legislature of the State of Texas: That any person, firm, or corporation engaged in running any pool or billiard table or tables, in a public place, or for profit, or agent of such person, firm, or corporation, who shall knowingly permit any minor, without the written consent of such minor's parent or guardian, in such place of business, shall be fined not exceeding two hundred dollars.

[Note.—The foregoing act was presented to the governor of Texas for his approval, on Friday, the fourteenth day of May, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

Takes effect 90 days after adjournment.

H. B. No. 264.]

CHAPTER 155.

An Act to prevent the barter, sale and gift of any pistol, dirk, dagger, slung shot, sword-cane, spear, or knuckles made of any metal or hard substance to any minor without the written consent of the parent or guardian of such minor, or of some one standing in lieu thereof, and providing a penalty for the violation.

Section 1. Be it enacted by the Legislature of the State of Texas: That if any person in this State shall knowingly sell, give or barter, or cause to be sold, given or bartered to any minor, any pistol, dirk, dagger, slung shot, sword-cane, spear, or knuckles made of any metal or hard substance, bowie knife or any other knife manufactured or sold for the purpose of offense or defense, without the written consent of the parent or guardian of such minor, or of some one standing in lieu thereof, he shall be punished by fine of not less than twenty-five dollars nor more than two hundred dollars, or by imprisonment in the county jail not less than ten nor more than thirty days, or by both such fine and imprisonment. And during the time of such imprisonment such offender may be put to

work upon any public work in the county in which such offense is committed.

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Friday, the fourteenth day of May, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

Takes effect 90 days after adjournment,

H. B. No. 391.]

CHAPTER 156.

An Act to relinquish the title and confirm the patents to certain lands herein named.

Section 1. Be it enacted by the Legislature of the State of Texas: That the land patents numbered three hundred and eighty-eight (388), five hundred and eighty-three (583) and five hundred and eighty-four (584), Vol. No. Four (4) (of the records of the general land office of the State of Texas), and issued to Thomas M. Joseph and Henry M. Truehart on the 20th day of December, A. D. 1859, and the 23rd day of August, A. D. 1860, covering certain lands in Galveston County, State of Texas, be, and the same are hereby confirmed, and that all right and title of the State of Texas to the lands therein named, be, and the same are hereby relinquished to the parties to whom the said patents were issued, and sale made in accordance with an act approved on the 20th day of February, A. D. 1858, and an act amendatory of the same, approved on the 1st day of February, A. D. 1860, as also by a special act of the legislature of the State of Texas, approved July 29th, A. D. 1870.

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Wednesday, the twelfth day of May, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

Takes effect 90 days after adjournment.

S. S. B. No. 320.]

CHAPTER 157

An Act to amend Title XXIII, Chapter 4, of the Revised Civil Statutes of the State of Texas, relating to county lines, by adding thereto Article 808a.

Section 1. Be it enacted by the Legislature of the State of Texas: That Chapter 4, Title XXIII. of the Revised Civil Statutes of the State of Texas, be amended by adding thereto an Article to be known as 808a, which shall read as follows:

Article 808a. Notwithstanding the preceding articles of this chapter, any county in this State may bring suit against any adjoining coun-

ty or counties for the purpose of establishing the boundary line between them. Such suit shall be brought in the district court of the county in an adjoining judicial district whose boundaries are not affected by the suit, and whose county seat is nearest the county seat of the county suing. And said court shall try said cause as other causes and shall have full and complete jurisdiction to determine where such boundary line is located, and if necessary shall order the same to be remarked and resurveyed. And if in the trial of any such cause it shall be found that the boundary line between the counties involved has never been established and marked, or if marked has become indefinite and undefined, said court shall have power to re-establish the same and order it marked. And any boundary line so established by such judgment shall thereafter be regarded as the true boundary line between the counties in question; provided, that if it shall be found in any such cause that the boundary line in question has been heretofore established under the law then in force, the same shall be declared to be the true line and shall be resurveyed and established as such; and provided, further, that it shall be unlawful for the commissioner of the general land office to mark, fix or place on any of the maps in said office any contested county line at any definite point thereon until a certified copy of the final judgment of the court, herein provided, is filed in the general land office together with a certified copy of the field notes of the line so established by such judgment.

Sec. 2. The near approach of the adjourning of the legislature and the crowded condition of the calendar create an emergency and a public necessity that the constitutional rule requiring bills to be read on three several days be suspended and that this bill be placed upon its final passage and that this act take effect from and after its passage, and it is so enacted.

[Note.—The foregoing act passed the Senate by a two-thirds vote, yeas 23, nays none; and passed the House, vote not given.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Friday, the twenty-first day of May, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

H. B. No. 686.]

CHAPTER 158.

An Act to amend the law in regard to taxation, and to regulate the sale of liquor, by amending Article 5060a and Article 5060c, of Title 104, Chapter 1a, of the Revised Civil Statutes of Texas, and adding Article 5060j to said chapter.

Section 1. Be it enacted by the Legislature of the State of Texas: That Articles 5060a and 5060c, of the Revised Civil Statutes of Texas, as described in the caption to this act, be amended so as to hereafter read as follows; and that Article 5060j be added to said chapter, to read as herein expressed:

Article 5060a. Hereafter there shall be collected from every person,

firm, corporation, or association of persons, selling spirituous, vinous or malt liquors, or medicated bitters capable of producing intoxication, in this State, not located in any county, subdivision of a county, justice precinct, city or town, where local option is in force under the laws of Texas, an annual tax of \$300 on each separate establishment, as follows: For selling such liquors or medicated bitters in quantities of one gallon or less than one gallon, \$300; for selling such liquors or medicated bitters in quantities of one gallon or more than one gallon, \$300; provided, that in selling one gallon the same may be made up of different liquors in unbroken packages aggregating not less than one gallon; for selling malt liquors exclusively, \$50. And there shall be collected from every person, firm, corporation, or association of persons, for every separate establishment selling such liquors or medicated bitters within this State and located within a county, subdivision of a county, justice precinct, town or city, in which local option is in force under the laws, the sum of \$200; provided, the same shall not be sold in such locality except on prescription and in compliance with the laws governing sales in such localities; provided, further, that nothing in this article shall be so construed as to exempt druggists who sell spirituous, vinous, or malt liquors, or medicated bitters capable of producing intoxication, on the prescription of a physician or otherwise in either locality as above set forth from the payment of the tax herein imposed; provided, further, that this article shall not apply to the sale by druggists of tinctures and drug compounds, in the preparation of which such liquors or medicated bitters are used and sold on the prescription of a physician or otherwise, and which tinctures and compounds are not intoxicating beverages prepared in the evasion of the provisions of this chapter nor the local option law.

Article 5060c. Every person, firm, corporation, or association of persons, desiring to engage in the sale of spirituous, vinous or malt liquors, or medicated bitters capable of producing intoxication, in this State, as set forth in Article 5060a of this chapter, shall, before commencing the sale of such liquors or medicated bitters, file with the county clerk of the county in which he or they propose to sell the same, an application under oath, on forms provided by the Comptroller, and shall designate the place in which it is proposed to engage in the sale of such liquors or medicated bitters, if any city or town in which streets are named and houses numbered, the street and number of house shall be given, and the quantities in which he or they propose to sell, whether one gallon or more, or one gallon and less than a gallon, or whether they desire to sell malt liquors exclusively; provided, in localities where local option is in force not more than one quart shall be sold at one time to the same person; and shall also state in said application whether said liquors or medicated bitters are to be sold to be drunk on the premises, or to be sold on prescription in a local option county, subdivision of a county, justice precinct, town or city; and shall pay to the collector of taxes of the county in which such sales are to be made the full amount of the annual tax herein levied, and such as may be levied by the commissioners' court of such county and the city or town in which sales are to be made; and shall file with the said clerk a bond as required by Article 5060g and 5060j of this chapter. In case the sales are to be made in a city or incorporated town, the taxes by such city or town shall be paid to the collector of taxes of such city or town. All taxes herein levied or which may be levied by

a county, city or town, shall be paid in advance, and upon the payment of same and full compliance herewith, the county clerk of the county shall issue to the person, firm, corporation, or association of persons, a license as provided for in Article 5060d of this chapter, which said license and licenses or receipts for the tax or revenues issued by the United States shall be posted by licensee in a conspicuous place in his or their place of business, and on failure to so post such license or receipt, he or they so failing shall be considered as having no license and subject to all the pains and penalties as if no such license had issued.

Article 5060j. Every person, firm, corporation, or association of persons, before engaging in the sale of spirituous, vinous or malt liquors, or medicated bitters capable of producing intoxication, in any county, subdivision of a county, justice precinct, town or city, in which local option is in force, shall enter into bond in the sum of \$2,500, with at least two good and sufficient sureties, payable to the State of Texas, to be approved by the county judge of the county in which such sales are to be made, conditioned that said person, firm, corporation, or association of persons, so selling spirituous, vinous or malt liquors, or medicated bitters capable of producing intoxication, shall not sell in any quantity, except on the prescription of a regular practicing physician, addressed to such person, firm, corporation, or association of persons, written with ink on white paper in the handwriting of such physician, dated, numbeed, and signed by such physician, giving his and applicant's place of residence, and certifying on his honor, that he has in person carefully examined the applicant or patient, and that he finds him or her actually sick, giving the malady or disease with which he or she is suffering, as near as he can ascertain, and that he or she is in immediate need of an alcoholic stimulant, such as prescribed; and there shall not be sold more than one quart on any one prescription, which shall be sold at one time and in one package, and delivered to the purchaser at time of sale; and that he or they shall not permit the same to be drunk on the premises where sold, nor on any other premises owned or controlled by him or them; and that he or they shall not sell more than once on the same prescription, and shall not sell on any prescription bearing the same number of another prescription given by the same physician and dated during the same year; and that he or they shall not sell on a prescription bearing date more than three days prior to the date of its presentation nor upon the prescription of a physician not known to him or them to be a regular practicing physician, authorized under the laws of Texas to practice his profession, nor permit a minor to remain on his premises or his place of business, except the house or place of business of a regular pharmacist; and that he or they shall not permit any games prohibited by the laws of this State to be played, dealt, or exhibited in or about such house or place of business; and that he or they shall not rent or let any part of the house or place of business or premises in which or on which they are selling such liquors or medicated bitters, to any one, for the purpose of carrying on any business in violation of the local option laws or the penal laws of the State; and that he or they shall not adulterate the liquors or medicated bitters sold by him or them, nor knowingly sell or give away such adulterated liquors; and that he or they shall keep an open, orderly house, and shall not use any screen or other device for the purpose of or

which shall obstruct the view through the door or doors opening out on the street or alley; which said bond shall be filed in the office of the county clerk of the county where such business is carried on, and recorded by him in a book to be kept for that purpose; and for recording same he shall receive a fee of 75 cents. For every breach or violation of any of the provisions of said bond, the person, firm, corporation, or association of persons, and the sureties on said bond, shall be liable in damages to any person, firm, corporation, or association of persons, injured thereby. In addition to the proceedings by parties sustaining damages by the violation, it shall be the duty of the county and district attorneys to institute suit in the name of the State of Texas for each and every infraction or violation thereof, for the use and benefit of the county, and the sum of \$250 shall be recovered for each infraction, against the principal and sureties on said bond, as liquidated damages, which said sum shall be paid into the county treasury and become a part of the road fund of said county. Said bond shall not be void on the first recovery, but may be sued upon for each infraction thereof until the full penal sum named therein shall be exhausted. If said bond shall be exhausted or become in danger of being exhausted by suits, said person, firm, corporation, or association of persons, shall be required to execute another bond; notice of such requirement shall be given by the county judge of the county, and such parties shall have ten days after notice to comply, and upon failure to do so shall be subject to all the pains and penalties from the time such notice was given as if no bond had been given in the first instance. Provided, that in case the county judge shall fail to give the notice herein required, then any citizen of the county, over the age of twenty-one years, may do so, and in case of failure to execute another bond within the time required, as above set forth, said person may bring suit in the district court of the county to require such person, firm, corporation, or association of persons, to execute a new bond. Provided, further, that in case the sureties on such bond shall become insolvent, or found to be insolvent after the execution of such bond, it shall be the duty of the county judge of the county to require of them a new bond, the same as above set forth, and in case of his failure to do so, any citizen, as above set forth, may proceed in the district court aforesaid to compel them to execute such bond, and in case the insolvency of said sureties or either of them is established, which shall be done under the rules of evidence governing other like cases, or in case it is shown that said bond is exhausted or in danger of being exhausted by suit, said court shall enter up its judgment requiring said parties to enter into a new bond within ten days from the date of the judgment, and adjudge the cost against defendants, and assess a reasonable attorney's fee against them as cost. In case of an appeal from such judgment the bond shall be in an amount sufficient to cover all costs and damages, to be fixed by the judge trying the cause; and in addition to the conditions now required in appeal bonds, be conditioned further to pay all damages occasioned by the breach or violation of the local option and penal laws of the State from the date of the institution of the suit until the final termination of such suit. In case appellants are cast in the suit and the same is finally determined against him or them, said appeal bond may be sued upon and recoveries had the same as provided in this chapter and article for suits and recovery on the original bond. Provided, further, that

when suit is instituted hereunder by a citizen, the suit shall be prosecuted without bond for cost on [or] appeal bond.

Sec. 2. The near approach of the close of the present session of the legislature, and the crowded condition of the calendar, and the importance of raising additional revenue for the State, and the justness of dealing with all liquor dealers alike, create an emergency and an imperative public necessity requiring the suspension of the constitutional rule requiring bills to be read on three several days, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act passed the House, vote not given; and passed the Senate by a vote of yeas 18, nays 3.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Thursday, the twentieth day of May, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Mad-den, Secretary of State.]

H. B. No. 711.]

CHAPTER 159.

An Act to create a more efficient road system for Parker County, Texas, and making the county commissioners of said county ex officio road commissioners, and prescribing their duties as such, and providing for their compensation as road commissioners, and providing for the appointment of road overseers, and defining their duties, and for the working of county convicts upon the roads of said county, and providing for officers' fees, and rewards for the capture of escaped convicts, and authorizing the working of county convicts partly upon the county convict farm, as well as upon the public roads, or partly upon both, in the discretion of the Commissioners Court, and making provisions of act applicable as far as practicable to convicts when worked on county farms, and to provide for the summoning of teams for road work and for an allowance of time of road service for same, and fixing a penalty for a violation of this act, and to repeal all laws in conflict with this act, as to Parker County, and to authorize the Commissioners Court of Parker County to create the office of superintendent of public roads and highways for Parker County, and to provide for the election of said superintendent, and defining his duties, and providing for compensation for said superintendent when elected, and prescribing bond to be given by said officer.

Section 1. Be it enacted by the Legislature of the State of Texas: That the members of the Commissioners' Court of Parker County shall be ex officio road commissioners of their respective districts, and under the direction of the Commissioners Court shall have charge of all the teams, tools and machinery belonging to the county and placed in their hands by said county, and it shall be their duty, under such rules and regulations as the Commissioners Court may prescribe, to superintend the laying out of new roads, the making or changing of roads, and the building of bridges. Each of said commissioners shall, before entering upon the duties of his office, in addition to his regular bond as such County Commissioner, execute a bond of one thousand dollars, with two or more good and sufficient sureties, payable to the county judge of said county, for the use and benefit of the road and bridge fund; conditioned that they will perform all the duties required of them by law or by the Com-

missioners Court, and that they will account for all money or property belonging to the county that may come into their possession; provided, that with the consent of the Commissioners Court any one of said commissioners shall be allowed to appoint any competent person as deputy road commissioner, who shall be required to execute same bond that is required of commissioners in this section, and such deputy road commissioner shall be entitled to the same compensation that is allowed county commissioners for the same service; provided, that county commissioners shall not be allowed any compensation when a deputy road commissioner has been appointed.

Sec. 2. The Commissioners Court of said county shall have full power and authority, and it shall be its duty, to adopt such a system for working, laying out, draining, and repairing the public roads in said county as it may deem best, and from time to time said court may change its plan or system of working. Said Commissioners Court shall have full power to purchase such teams, tools and machinery as may be necessary for the working of its roads. Said court shall have power to construct, grade, or otherwise improve any road or bridge by contract. In such case said court or county judge of said county, may advertise in such manner as said court may determine, for bids to do such work, and the contract shall be awarded to the lowest responsible bidder, who shall enter into bond, payable to the county judge of said county for the use of the road and bridge fund, with good and sufficient sureties, to be approved by said court, and in such sums as said court may determine, for the faithful compliance with the terms of said contract, but said court shall have the right to reject any and all bids. At the time of making such contract, the court shall direct the county treasurer to pass the amounts to a particular fund for that purpose, and the treasurer shall keep a separate account of such funds; same shall not be used for any other purpose, and can only be paid out on the order of said court; and the said court shall have authority to employ any hands or teams to work on the roads, under such regulations and for such price as they may deem best, not to exceed two dollars and fifty cents per day, of ten hours per day, for a team and driver, and not to exceed one dollar and twenty-five cents per day for day hands; and no road hand when working out his time on the road shall be required to work but eight hours per day; but when hands are hired by the day, they shall be required to work ten hours per day.

Sec. 3. The Commissioners Court of said county shall require all county convicts not otherwise employed, to labor upon the public roads under such regulations as they may prescribe, and each convict so worked shall receive a credit of fifty cents, on his fine first, and then on the cost, for each day he may labor. The Commissioners Court may provide such reasonable regulations, as punishments, as may be necessary to require such convicts to perform good work; and may provide a reward, not to exceed ten dollars, to be paid out of the road and bridge fund, for the recapture and delivery of any escaped convict, to be paid to any person other than the guard or person in charge of such convict at the time of his escape. The Commissioners Court may grant a reasonable commutation of time for which a convict is committed, as a reward for faithful services and good behavior, in no case to exceed one-tenth of the time.

Said court may provide the necessary houses, prisons, clothing, bedding, food, medicines, and medical attention, and guards, for the safe and humane keeping of convicts.

The Commissioners Court may at a regular meeting allow to the officers such amount of their cost for the arrest and conviction of said convict as now provided by law; provided, that said court shall not allow to any officer an amount greater than the following: County attorney, five dollars, including commissions; county clerk and justice of the peace, one dollar and seventy cents; sheriffs or constables two dollars. The aforesaid amounts shall be paid out of the road and bridge fund, upon the order of said court, when said fine and costs have been worked out as provided in this section; provided, that this act shall not be construed so as to relieve any convict from payment of all costs for which he would be liable under the general laws of this State.

Nothing in this section shall be construed so as to deprive the Commissioners Court of the right to have convicts to work a part or all of their time on the county convict farm; but authority is herein expressly given said court to require convicts to labor, in payment of fines and costs, either upon the county convict farm or upon the public roads, or partly upon both, as to said court it may seem best, and the provisions of this section shall apply as far as practicable, in all cases where convicts labor upon the county convict farm.

Sec. 4. Each county commissioner shall have charge of all road overseers in his district and shall deliver to each of them, all teams, tools and machinery necessary in working the roads in the district of said overseer, so far as he has been supplied therewith by the Commissioners Court, taking receipt of said overseer therefor, specifying each item and giving its value, which receipt shall be a full answer of the liability of the commissioner and shall fix the liability of the overseer. And any commissioner or overseer who shall have been entrusted with any teams, tools or machinery belonging to said county, shall be liable for any damages that may occur to the same while in his possession caused by negligence or want of due care of same, and shall not use or permit the same to be used for private purposes without the consent of the Commissioners Court. It shall be the duty of the road overseer, when he has finished work on his roads, to return to said commissioners all teams, tools and machinery received from them by him and take up the receipt given therefor.

Sec. 5. It shall be the duty of the commissioners, when acting as road commissioners, to inform themselves of the condition of the public roads in their districts, and they shall determine what character of work shall be done upon said roads and shall direct the manner of grading, draining, or otherwise improving the same, which directions shall be observed and obeyed by all overseers of his district.

Sec. 6. The commissioners may require each overseer in his district to call out the hands in such numbers as may be sufficient to perform the work, but no road hand shall be required to work exceeding five days in any one year, or two days with himself and team, unless the terms of service as prescribed by the general laws shall be extended beyond that time; and provided, that all road hands in any particular district shall, as far as practicable, be worked a uniform time. Each road overseer, or in case of his absence, any person deputized by him, shall have full con-

trol of all road hands within his road district, and shall see that each hand, when called out, shall perform a good day's work; and if any hand when so called out shall fail or refuse to do a good day's work, or to work in the manner the overseer may direct, he shall be liable to the same penalty as if he had failed to appear in obedience to the summons. The Commissioners Court may allow any overseer who shall be engaged in the discharge of the duties of his office for more than five days during any one year a compensation not to exceed one dollar per day for each day served over five days during any one year.

Sec. 7. Any citizen of Parker County who is subject to road duty, who shall on or before the first day of January of any year, pay to the county treasurer of said county the sum of three dollars and seventy-five cents, shall be exempt from road duty for such year, beginning on the first day of January.

The treasurer shall receive and receipt for all money so paid him and place the same to the credit of the road and bridge fund. The treasurer shall on the third day of January of each year, or as soon thereafter as practicable, furnish the Commissioners Court with a list of all persons who have paid said sums, as provided in this section, and said court shall immediately have overseers, in districts wherein said sums have been paid, notified of the payment of the same, and by whom paid.

Sec. 8. Every person liable to work on the public roads in Parker County, who shall pay to his road overseer at any time before the day appointed to work on his road, the sum of one dollar for each day that he is summoned to work, shall be exempt from work for each day paid for.

Sec. 9. Each person summoned to work on the road shall take with him an axe, hoe, pick, shovel, plow, scraper, or such other tools as may be desired and directed by the overseer; or if he has no such tools as are desired and directed by the overseer, to take with him, he shall take such other suitable tools as he may have; provided, the county shall be liable for, and the Commissioners Court, under such regulations as they may prescribe, shall pay for all such breakage or damage to tools as may have resulted from public road work, and not caused by the negligence of the person furnishing the same. Such overseer shall also summon and require such road hand to bring with him for road work, such team or teams as he may have on hand suitable for road work; provided, such hand shall be allowed two and one-half days time for each day put in by a hand and his team, and one and one-half days time for his team without such hand; provided, it shall be unlawful for any road overseer, superintendent of public roads and highways, or county commissioner, when acting in the capacity of ex officio road commissioner, to work or use any team or teams of which he is the owner upon the public county roads at an expense to the county, and the Commissioners Court shall not allow any compensation for such service so rendered.

Sec. 10. If any person liable to work on the public roads, after being legally summoned, shall intentionally fail or refuse to attend either in person or by an able and competent substitute, or fail or refuse to furnish his team or tools at the time and place designated by the person summoning him, or to pay to the overseer such sum as one dollar per day for each day summoned to work, he shall be deemed guilty of a mis-

demeanor, and on conviction thereof he shall be fined in any sum not to exceed ten dollars.

Sec. 11. At the regular term of the Commissioners Court of each year all road overseers shall make their report under oath, upon the form to be furnished them by the said court, which said report shall be examined by said court, and all accounts for services or labor performed, for overwork by such overseer during the past year, and of moneys had and expended by him, shall be audited and settled; and as soon thereafter as practicable, said Commissioners Court shall appoint and commission road overseers for the succeeding year. Any overseer intentionally failing to perform his duties as such overseer, or failing or refusing to serve and perform the duties of overseer when appointed by said court, or to perform any other duty required of him by law or by the Commissioners Court, or by the commissioner of his district, or county superintendent of public roads and highways, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not exceeding twenty-five dollars.

Sec. 12. Whenever it shall be necessary to occupy any land for the opening, widening, straightening, changing or draining any road or any part thereof, if the owner of said land can not agree with the court as to damages to be paid, the court may proceed to condemn the same, in the same manner that a railroad company can condemn land for a right of way, and the same proceedings may be had and the same right shall exist to each party that would exist if the proceedings were by a railroad company, except that the county shall in no case be required to give bond.

Sec. 13. When to the overseer it may appear expedient to make causeways and build bridges or to gravel any public road, the timber, gravel, earth, stone, or other necessary material most convenient therefor may be used; but in such case the owner of such timber or gravel, earth, stone, or other necessary material, shall be paid out of the county treasury a fair compensation for the same, to be determined by the Commissioners Court upon the application of such owner.

Sec. 14. Each County Commissioner, when acting as road commissioner, shall be entitled to two dollars per day for services actually performed; provided, that he shall not receive more than ~~sixty~~ ^{sixty} dollars per quarter; said per diem to be paid out of the road and bridge fund when the account shall have been approved by the Commissioners Court; and the court shall not approve said account unless the commissioner presenting it shall make oath that the account is just, due and unpaid; and said account shall specify the number of days work actually performed by him, and that it was necessary to be done under the circumstances, and no commissioner shall be entitled to pay as road commissioner, either for himself or his deputy, while he is performing the duties of county commissioner, nor shall he receive any additional pay than that provided by this section for inspecting or riding over his road or for other road service.

Sec. 15. In all cases where the cost of material and labor exceeds two hundred dollars, it shall be the duty of said court to construct, grade, or gravel, or otherwise improve any road or bridge by contract, the same to be advertised for as provided by said Commissioners Court.

Sec. 16. The office of county superintendent of public roads and

highways is hereby created, and the Commissioners Court of Parker County may, when in their judgment it may be advisable, provide for the election of a county superintendent of public roads and highways, at each general election, who shall be a person of good moral character and executive ability, a qualified voter of said county, who shall hold his office for the term of two years, and until his successor is elected and qualified; and said Commissioners Court when they so provide for the election of a county superintendent, shall appoint a county superintendent of public roads and highways, with the qualifications above provided, who shall perform the duties of such office until a county superintendent shall have been elected as hereinbefore provided, and shall have qualified. Such superintendent, when elected or appointed, shall perform the duties of his office from time to time, under such direction or regulations as in the judgment of the Commissioners Court may seem best; and said superintendent shall at all times be subject to the direction or immediate control of the Commissioners Court. Such county superintendent of public roads and highways, before entering upon the discharge of his duties, shall take the oath of office prescribed by law, and shall enter into bond in the sum of five thousand dollars, with good and sufficient sureties, to be approved by the County Commissioners Court, and to be filed with the county clerk of Parker County, and said bond shall be made payable to the County Commissioners Court of Parker County and their successors in office, in trust for the road and bridge fund of Parker County, and be conditioned for the faithful performance of the duties of his office. In case said bond is forfeited and collected, the sum so collected shall become a part of the road and bridge fund of Parker County. Such superintendent, while actually engaged in the discharge of the duties of his office, shall receive from the road and bridge fund of Parker County, as compensation for his services, a salary not exceeding six hundred dollars per year; and the County Commissioners' Court of Parker County shall have the power and authority, when in their judgment they may deem it advisable, to abolish the office of county superintendent of public roads and highways, by an order entered on the minutes of their court at a regular term thereof. Whenever such office is abolished, the County Superintendent shall serve out the term for which he was elected, and at the expiration of his term he shall turn over all books, papers, records, tools, machinery, and other property in his possession belonging to the county or pertaining to his office, to the county judge, who shall issue a receipt therefor.

Sec. 17. This act shall be taken notice of by all courts in the same manner as a general law of the State, and it shall be construed to be cumulative of all general laws of the State on the subject of roads and bridges when not in conflict therewith; but in case of conflict, this act shall control as to the County of Parker; and all local or special laws in conflict herewith are hereby repealed.

Sec. 18. The fact that there is now no sufficient general road law in force in this State, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act passed the House, vote not given; and passed the Senate by a two-thirds vote, yeas 25, nays none.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Friday, the twenty-first day of May, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

H. B. No. 690.]

CHAPTER 160.

An Act to amend Section 1 of an act entitled an act to authorize and permit the Aransas Pass Harbor Company to purchase from the State of Texas, Harbor Island, certain shoal waters and flats in front thereof, and in Red Fish Bay, and to excavate a free channel along and through Turtle Cove, between Corpus Christi Bay and the deep water harbor or channel at or near Aransas Pass, in order to encourage the procuring and maintenance of deep water at Aransas Pass, and prescribing certain conditions attaching to and following with such purchase, passed at the present session, and which became a law without the Governor's approval, April 8th, A. D. 1897.

Section 1. Be it enacted by the Legislature of the State of Texas: That Section 1 of an act entitled An act to authorize and permit the Aransas Pass Harbor Company to purchase from the State of Texas, Harbor Island, certain shoal waters and flats in front thereof, and in Red Fish Bay, and to excavate a free channel along and through Turtle Cove, between Corpus Christi Bay and the deep water harbor or channel at or near Aransas Pass, in order to encourage the procuring and maintenance of deep water at Aransas Pass, and prescribing certain conditions attaching to and following such purchase, passed at the present session, and which became a law without the Governor's approval, April 8th, A. D. 1897, be so amended as to hereafter read as follows:

Section 1. The Aransas Pass Harbor Company shall be permitted to purchase from the State of Texas, at two dollars per acre, all or any portion of Harbor Island, situated near Aransas Pass, on the Gulf coast of Texas, as well as the shoal waters and flats lying in front of said island on its east side out to the present deep [water] channel; and also all and any flats and shoal waters in Red Fish Bay, lying in one-half mile of any deep water channel, navigable for sea-going boats, that may be hereafter constructed by said company through or in said Red Fish Bay connecting the same with Aransas or Corpus Christi Bays, or the Morris and Cummins channel, and extending to the shore of Red Fish Bay at and near the present town site of Aransas Pass; and provided, further, that any channel so constructed in Red Fish Bay, shall be sixty feet wide at the bottom and five feet deep throughout; and provided, further, that said company shall not be permitted to purchase any flats or shoal waters in Red Fish Bay lying within one-half mile of any private holdings on said Red Fish Bay on the side next to the present town site of Aransas Pass; and provided, further, that all channels excavated or constructed by said Aransas Pass Harbor Company, under the authority of this law, shall forever remain open and free to all vessels without fee or charge; provided, that said company shall not be permitted to purchase the twenty-

five acres of Harbor Island heretofore patented to the United States, and on which Aransas lighthouse now stands, nor the shoal waters or flats in front thereof, nor the land on which the State quarantine station is now situated on said island, nor the shoal waters or flats in front thereof, which said land is hereby specially reserved to the State, and which said land so reserved is described as follows: Beginning at a point situated at mean low tide mark on the east shore of said Harbor Island, one-half mile in a northerly direction from the center of the foot or shore end of the quarantine wharf; thence in a southerly direction along the east shore of said island at mean low tide mark, with its meanders, one mile to the southeast corner of this tract of land; thence in a westerly course in right angles with the general course of the line above established, one-half mile establish corner for southwest corner of this tract; thence in a northerly direction parallel with the general course of the east line of this tract, as herein first above provided; one mile establish the northwest corner of this tract; thence in an easterly direction parallel with the south line of this tract, one-half mile to point of beginning on east shore of Harbor Island for northeast corner; provided, however, that if said described property is abandoned by the State as a quarantine station and hereafter put upon the market for sale or lease by the State, said harbor company shall have the preference right to buy or lease same at the price that may hereafter be put thereon by the State; provided, however, that such preference shall continue for ninety days only after the time said property is put on the market by the State for such sale or lease; provided, further, that said company shall not be permitted to purchase or acquire under this act the shallow bay or cove locally known as Turtle Cove, and situated between Harbor Island on the north and northwest and Corpus Christi Bay on the west side, and Mustang Island on the south and southeast, and Aransas Pass and Aransas Bay on the east and northeast; provided, further, that said company shall not purchase or acquire any of the shoal waters or flats adjoining what is known as Shell Bank Island, Talley Island, and the shell reef running towards the main land from said island. Be it further provided, that nothing in this act contained shall be so construed as to affect or impair the vested rights of any person, firm, association of persons, or corporations.

Sec. 2. The great importance of continuing the work for deep water at Aransas Pass, and the necessity of securing it at the earliest possible day, and the fact of the vast amount of business before this session of the Legislature, and the length of the session being limited, creates an imperative public necessity and emergency which demands that the constitutional rule requiring bills to be read on three several days be suspended and that this act take effect and be in force from and after its passage, and it is so enacted.

Sec. 3. That all laws in conflict with any of the provisions of this act be and the same are hereby repealed.

[Note.—The foregoing act passed the House, vote not given; and passed the Senate by a two-thirds vote, yeas 26, nays 1.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Friday, the twenty-first day of May, A. D. 1897, but was not signed by him nor returned to the house in which it originated

with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

H. B. No. 491.]

CHAPTER 161.

An Act to repeal an act entitled an act to incorporate the town of Castrovilla, approved January 16, 1850.

Section 1. Be it enacted by the Legislature of the State of Texas: That the act approved January 16, 1850, entitled An act to incorporate the town of Castrovilla, be and the same is hereby repealed.

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Thursday, the twentieth day of May, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

Takes effect 90 days after adjournment.

S. H. B. No. 413.]

CHAPTER 162.

An Act to amend Article 3384, Title LXIX, of the Revised Civil Statutes of the State of Texas, relating to local option.

Section 1. Be it enacted by the Legislature of the State of Texas: That Article 3384, Title LXIX, of the Revised Civil Statutes of the State of Texas, be and the same is hereby amended so as hereafter to read as follows:

Article 3384. The commissioners' court of each county in the State, whenever they deem it expedient, may order an election, to be held by the qualified voters of said county, or of any commissioner's or justice's precinct, or school district, or any two or more of any such political subdivisions of a county, as may be designated by the commissioners' court of said county, to determine whether or not the sale of intoxicating liquors shall be prohibited in such county, or commissioner's or justice's precinct, or school district, or any two or more of any such political subdivisions of such county, or in any town or city; provided, it shall be the duty of said commissioners' court to order the election as aforesaid whenever petitioned so to do by as many as two hundred and fifty voters in any county, or fifty voters in any other political subdivision of the county or school district, as shall be designated by said court, or in any city or town, as the case may be; provided, that if the precinct or precincts designated embrace within the limits an incorporated town or city, then such election shall only be ordered when the petition for the same is signed by qualified voters, not less than one-tenth in number of the total vote cast for governor at the next preceding general election in such incorporated town or city; and in case an election is asked for a

subdivision of said county, composed of two or more complete commissioners' or justices' precincts, or school districts, such petition shall describe such subdivision by metes and bounds, as well as by the proper numbers of such precincts or school districts; and said petition and the description of such subdivision shall be recorded in full in the minutes of the commissioners' court, and such description shall be embraced in the notice given for such election; provided, that where a school district, city or town may be composed in part of two or more subdivisions of the county, named hereinbefore, the right to order and hold an election in such school district, city or town, shall not be denied; and provided, further, that no city or town shall be divided in holding a local option election for any of the other subdivisions named herein; nor shall any school district which has adopted local option, be divided in a subsequent election, held for any other of such subdivisions covering a part of the territory of such school district.

Sec. 2. That all laws and parts of laws in conflict herewith be and the same are hereby repealed.

Sec. 3. That the near approach of the close of this session creates an emergency that the constitutional rule requiring bills to be read on three several days be suspended, and it is so suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act passed both houses of the Legislature, the vote by number of yeas and nays not given in either house.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Wednesday, the twelfth day of May, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

Takes effect 90 days after adjournment.

S. B. No. 154.]

CHAPTER 163.

An Act to require cities to provide for a board of plumbers to be known as the examining and supervising board of plumbers; to regulate the duties of said board, and to provide penalties for violation hereof.

Section 1. Be it enacted by the Legislature of the State of Texas: That every city in this State having underground sewers or cesspools, shall pass ordinances regulating the tapping of said sewers and cesspools; regulating house drainage and plumbing, creating a board for the examination of plumbers, to be known as the examining and supervising board of plumbers; to provide for an inspection of plumbing. Said board shall consist of the following five persons: a member of the local board of health, the city engineer, the chief plumbing inspector, a master plumber of not less than ten years active in continuous business experience, and a journeyman plumber of not less than five years active continuous practical experience. The mayor and the local board of health shall make said appointment, and shall regulate the length of term each member shall serve; they shall fill all vacancies occurring in the examining and

supervising board of plumbers; appointments to said vacancies to be for the unexpired term of the member whose place is filled.

Sec. 2. The examining and supervising board of plumbers herein created shall examine and pass upon all persons now engaged in the business of plumbing, whether as a master plumber, employing plumber, or journeyman plumber, in their respective cities, and all persons who may hereafter wish to engage in the business of plumbing as master plumber, employing plumber, or journeyman plumber, within their respective jurisdictions, and also all persons who may apply for the office of plumbing inspector. They shall issue a license to such persons only as shall successfully pass a required examination. They shall also register in a book to be kept for that purpose, the names and places of business of all persons to whom a plumber's license is issued. They shall not issue license for more than one year, but the same shall be renewed from year to year, upon proper application.

Sec. 3. Each applicant for examination for plumber's license shall pay to such person as the examining and supervising board of plumbers may designate to receive the same, the sum of three (\$3.00) dollars for each master plumber examined, and the sum of two (\$2.00) dollars for each journeyman plumber examined, which fees may be used by said board to defray any of its legitimate expenses, the residue, if any, to be paid over to the treasurer of the city in which said board shall operate. Members of the examining and supervising board of plumbers shall receive no compensation for their services on said board. Said license shall be non-transferable, and said examination and examination fee shall not be required of the same person more than once.

Sec. 4. In selecting the first or chief inspector of plumbing, herein provided for, the mayor shall act with the other four members of said board above specified. After said inspector of plumbing shall have been chosen, he shall become the fifth member of the examining and supervising board of plumbers in place of the mayor.

Sec. 5. Be it further enacted: That license shall not be issued to any person or firm to carry on or work at the business of plumbing, or to act as inspector of plumbing, until he or they shall have appeared before the examining and supervising board for examination and registration, and shall have successfully passed the required examination. Every firm carrying on the business of plumbing shall have at least one member who is a practical plumber.

Sec. 6. Any person, whether as master plumber, employing, or journeyman plumber, engaged in, working at, or conducting the business of plumbing without license as provided in this act, shall be guilty of a misdemeanor, and on conviction thereof, shall pay a fine of not less than twenty nor more than two hundred and fifty dollars.

Sec. 7. All laws or parts of laws in conflict herewith are hereby repealed.

Sec. 8. The near approach of the close of the present session of the legislature and the large number of bills now upon the calendar of each house create an emergency, and an imperative public necessity exists, that the constitutional rule requiring bills to be read on three several days be suspended, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas

for his approval, on Friday, the twenty-first day of May, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

Takes effect 90 days after adjournment.

S. B. No. 258.]

CHAPTER 164.

An Act to create a State Text-Book Board and to procure for use in the public free schools of the State of Texas a series of uniform text books; defining the duties of certain officers therein named with reference thereto; making appropriation therefor; defining certain misdemeanors; providing penalties for the violation of the provisions of this act, and declaring an emergency.

Section 1. Be it enacted by the Legislature of the State of Texas: That the State Board of Education, together with the State Superintendent of Public Instruction, the President of the Sam Houston Normal Institute and the Attorney General shall constitute a State text-book board for the purpose of adopting a uniform system of text-books for the use of the public free schools of this State, and for the further purpose of executing the provisions of this act. Said board is hereby authorized to select and adopt a uniform system of text-books for the purpose above indicated, and the text-books so selected shall be used in the public free schools of this State for a period of not less than five years from the date of their said adoption. Said series to include the following branches of study, to-wit: Spelling, reading, English language lessons and grammar, geography, arithmetic, the elements of physiology and hygiene, history of the United States, history of the State of Texas, a graded system of writing books; provided that any of said text-books shall not contain anything of a partisan or sectarian character; and provided further, that the State text-book board shall appoint a commission consisting of five persons engaged in the school business as teachers or city or county superintendents; provided, that not more than one of such commissioners shall be appointed from any congressional district of this State, who shall examine in executive session all books sent to the State text-book board as samples upon which bids are to be based, and shall report upon the merits of the books, irrespective of price, taking into consideration chiefly the internal merits or subject matter of the books, but having proper regard, also, to the material and mechanical qualities of the books, and shall report a classified list of said books to the State text-book board at a date fixed by said board, arranging the books of each class and subclass or division in said report in the order in which they are recommended; that is, the first reader to which the commission gives its first recommendation shall be the first on the list of first readers; the first reader to which the board may give its second recommendation shall be placed second on the list, and so on until all books examined by the said commission have been properly listed. This report shall be delivered to the text-book board under seal and shall not be opened till the board meets to open and consider the bids of publishers or others desiring to have books adopted by the said board. The members of said commission shall,

before entering upon their duties, each take and subscribe to an oath, and shall file the same with the secretary of the text-book board, to examine all books referred to said commission faithfully and carefully and make true report thereon as herein prescribed and directed. The State text-book board in adopting books shall consider the said report, together with the bids made by publishers, and adopt books to which the commission gives its first recommendation, unless other books on the same subject coming later on the said lists are offered at lower prices, taking into consideration subject matter, material, style, binding and mechanical excellence, in which case the text-book board will exercise its discretion and shall be authorized to make an adoption in view of all the circumstances. If the text-book commission consider different books of the same class or divisions to be of approximately equal merit, all things being considered, they shall so report; and if they consider that any of the books offered are of such general character as to make them inferior and not worthy of adoption by the State text-book board, they shall in their report so designate such books. The compensation of this commission shall be fixed by the State text-book board and shall be paid, with their expenses, from the special appropriation authorized in this act; provided, that the compensation shall not exceed \$5 per day for each day that such members may serve. Books furnished shall be in all respects equal to the samples furnished the text-book board at the time of filing bids and fully equal in both internal and external material qualities to the books in general use in the State on the respective subjects; Provided, nothing in this act shall be so construed as to prevent the teaching of German, Bohemian, Spanish, Latin, French or Greek in any of our public schools, in conjunction with the English course prescribed by this act, when the trustees of any such school shall recommend the teaching of German, Bohemian, Spanish, Latin, French or Greek; but the teaching of such languages shall not be allowed to supersede the use of the text-books prescribed under the provisions of this act; provided, that said board in selecting said books, shall give preference to the text-books of Texas authors or publishers, the price and merit of same being equal to other text-books offered.

Sec. 2. Said board shall immediately upon the taking effect of this act advertise for such time in such manner as they deem best to obtain the desired information that at a time and place to be fixed by said notice and not later than two months after the first publication thereof said board will received sealed proposals as follows: "From the publishers of school text-books for furnishing books to the schools of the State through agencies established by said publishers in the several counties of the State as may be provided for in such regulations as said board may adopt." No bid from any publisher shall be entertained by said board made for a longer period than five years. Said bid or bids shall state specifically at what price each book will be furnished and shall be accompanied with specimen copies of each and all books proposed to be furnished, and it shall be required of the bidders, and each of them, to deposit with the Treasurer of the State such sum of money as the board may require, not less than five hundred dollars nor more than twenty-five hundred dollars, according to the number of books each bidder may propose to supply. Such deposits shall be forfeited to the State absolutely if such bidder so depositing any sum shall fail to make and execute such

contract and bond as herein required within such time as the board may require, which time shall be stated in the notice advertised. All bids shall be deposited sealed with the Comptroller of the State, to be by him delivered to the board when they are in session for the purpose of considering the same, when they shall be opened in the presence of the board. When any person has been awarded a contract and filed his bond and contract with the board the said board shall make an order on the Treasurer of the State, reciting such fact, whereupon the Treasurer shall return the deposits of such successful bidder; but if any such successful bidder shall fail to make and execute the contract and bond as hereinbefore required the Treasurer shall place such special deposit in the State Treasury to the credit of the available school fund and the board shall readvertise, if they conclude to do so, for other bids to supply such books, which the successful bidder may have failed to supply. All unsuccessful bidders shall have their deposits returned to them as soon as the board has decided not to accept their bids. All books selected and adopted by the board shall be printed or written in English. The board shall stipulate in contract for supplying books, as herein provided, that the contractor or contractors shall exchange the contract books for all books actually in use, and for which purpose the value of the books in use shall be deducted from the contract price of the new books; provide, the successful bidder to supply any books, who may have awarded to him or to them any contract, shall, within the time fixed by the board, enter into contract and shall make and execute a good and sufficient bond, payable to the State of Texas, and in the sum of not less than ten thousand dollars, signed by not less than three solvent sureties, who shall be residents of the State of Texas, to be approved by the Governor, which said bond may be put in suit at any time upon suggestion of the board. Such bond shall be conditioned that the contractor or contractors shall faithfully and honestly perform the conditions of the contract. Said contract and bond shall be prepared by the Attorney General and be made to conform to the requirements of this act. Said bond shall not be exhausted by a single recovery, but may be sued upon from time to time till the full amount thereof is recovered, and the board may at any time after twenty days' notice require a new bond to be given.

Sec. 3. It shall be the duty of said board to meet at the time and place mentioned in such notice and open and examine all sealed proposals received pursuant to the notice provided for in section 2 of this act; and it shall be the further duty of said board to make a full, complete, and thorough investigation of all such bids, and to ascertain under which of said bids the school books could be furnished to the people of this State for common school use at the lowest price, taking into consideration the size and quality as to matter, material, style of binding and mechanical execution of such books; said text-book board shall then proceed without delay to adopt for use in the public schools of this State text-books upon the branches hereinbefore mentioned, and notify publishers to whom contracts are awarded, and as each contract duly signed by the publishing house, or its authorized officers or agents, is presented to the board, if it is found to be in accordance with the award and the provisions of this act, and the bond herein required is presented, duly approved, the board shall approve said contract, and order it to be signed on behalf of the State by the Governor, who shall be *ex officio* chairman

of the text-book board, in his capacity as chairman, and by the State Superintendent of Public Instruction, who shall be *ex officio* secretary of the text-book board, in his capacity as said secretary; thereupon the Governor and the State Superintendent of Public Instruction shall sign said contract in said respective capacities; and all contracts shall be made in duplicate—one copy to remain in the possession of the secretary and to be copied in full in the minutes of the meetings of said board, to be kept in the office of the State Superintendent of Public Instruction in a well bound book, and the other copy to be delivered to the company or its agent. And in case of failure to comply with said contract, the board may cancel the contract so broken; provided, that the board and the contractor agreeing to furnish the books may, by agreement, make such changes of the books to be furnished as the board may deem proper and to the interest of the State. The contract price of each book shall be plainly printed on the back of each book by the publisher or the parties furnishing the same; provided, always, that such board shall not in any case contract with any publisher or publishers for the furnishing of any book or books which shall be sold to patrons for use in the public schools of this State at a price above or in excess of the lowest price at which said publisher or publishers furnish under contract the said book or books to any State, county, or school district in the United States.

Sec. 4. It shall be part of the terms and conditions of every contract made in pursuance of this act that the State of Texas shall not be liable to any contractor hereunder for any sum whatever, but all such contractors shall receive their pay in compensation solely and exclusively from the proceeds of the sale of books as provided for in this act, and it is hereby provided that the State shall have the right to terminate said contract whenever the law is repealed or amended, altered or qualified as to make necessary or expedient that such contract should be revoked, and the contract shall contain a stipulation to that effect.

Sec. 5. As soon as such board shall have entered into contract for the furnishing of books for use in the public free schools of this State, pursuant to the provisions of this act, it shall be the duty of the Governor to issue his proclamation announcing such fact to the people of the State; and it is further provided, that the State Superintendent of Public Instruction shall carefully label and file away all sample copies of the books so furnished as hereinbefore provided, and for which a contract shall have been entered into as herein specified, which shall be securely kept as the standard of quality and excellence to be maintained in such books during the continuance of such contract.

Sec. 6. The party with whom such contract has been made shall establish and maintain in some city in this State a depository to be designated by the board, where a stock of their books sufficient to supply all immediate demands shall be kept. It shall also establish and maintain one or more agencies in every county in the State having an enrollment of five hundred pupils or more in the public schools, as shown by the last report of the County Superintendent of the county on file in the office of the State Superintendent of Public Instruction, and any person in a county not having an agency for any of the adopted books, may order from the central agency, and the books so ordered shall be sent to him at any post-office in the county at the retail contract price; provided, that the price of

the books so ordered shall be paid in advance; one of which agencies shall be at the county seat. At such agencies books shall be sold at the retail contract price, together with the following notice: "The price fixed hereon is fixed by State contract, and any deviation shall be reported to the State Superintendent at Austin." And it is provided that upon the failure of the party contracting to furnish the books for the public free schools of this State, as provided for in this act, the county judge may, in the name of the State of Texas, sue in the District Court of his county and recover on the bond given by the contractor under this act for the full value of the books so failed to be furnished for the use and benefit of the schools of his county, and the amount so recovered shall be placed to the credit of the available school fund in the county so recovering; and it is further provided, that unorganized counties shall be furnished books through the same agency as the county to which said unorganized county is attached for judicial purposes, in the same manner as the said organized county obtained the books used therein.

Sec. 7. As soon as practicable after the adoption provided for in this act, the State Superintendent of Public Instruction shall address a circular letter to the county superintendents and the presidents of school boards in independent school districts, which letter shall contain a list of the books adopted, the prices, method of distribution, and such other information as he may deem necessary.

Sec. 8. The board may from time to time make necessary regulations not contrary to the provisions of this act to secure the prompt distribution of the books herein provided for.

Sec. 9. If upon the examination of the proposals referred to in Section 3 of this act, it shall be the opinion of said board that first-class, suitable books on any branch herein named can not be secured by adopting any of the offers submitted in compliance with the provisions of this act, and that such books on such branch can be secured at rates not exceeding those fixed by this act by procuring, and causing to be published manuscript of books on such branch, it shall be their duty to procure such manuscripts and to advertise for sealed proposals for publishing the same in like manner as hereinbefore provided and under the same conditions and restrictions, and such contract may be let for the publication of all such books, or for any one or more of such books separately; and it shall be the further duty of said board to provide in the contract for the publication of any such manuscript for the payment by the publisher of the compensation agreed between said board and the author or owner of any such manuscript, together with the cost or expense of copyrighting the same.

Sec. 10. After September 1, 1898, or as soon thereafter, as the board may deem practicable, the books adopted by the board as a uniform system of text-books for this State shall be introduced and used as text-books to the exclusion of all others in the public free schools; provided, that nothing herein shall be construed to prevent the use of supplementary books, but such supplementary books, shall not be used to the exclusion of the books to be prescribed under the provisions of this act, nor shall such supplementary books be so used in the public free schools of this State in such way as to compel the purchase of such supplementary books by the patrons of the schools.

Sec. 11. Any teacher or trustee who shall violate the provisions of

this act, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than ten, nor more than fifty dollars for each offense, and every day of such violation shall be considered a separate offense.

Sec. 12. Nothing in this act shall be construed to prevent or prohibit the patrons of the public schools throughout the State from procuring books in the usual way, in case no contract should be made, or the contractor fails or refuses to furnish the books provided for in this act at the time required for their use in the respective schools.

Sec. 13. The sum of two thousand dollars, or so much thereof as may be necessary, is hereby appropriated for the purpose of paying the cost and expense of putting into effect the provisions of this act.

Sec. 14. Any county, city or town which has assumed control of its schools, and which has, prior to April 1, 1897, adopted a uniform system of text-books shall not be required to comply with the provisions of this act prior to the first day of September, 1899, or until contracts heretofore entered into shall have expired; provided, that this act shall not apply to cities of 10,000 inhabitants or over, unless such city or cities shall by their city council or school board adopt the provisions of this act.

Sec. 15. The board shall prepare and submit to the Governor before the Twenty-sixth Legislature shall convene, a report wherein they shall discuss the feasibility of State publication of common school text-books, and submit estimates of the probable cost to the State of such publication.

Sec. 16. The fact that many publishers of school text-books have entered into conspiracies and combinations against competition, rendering it impossible to procure school books at fair and reasonable prices, and the further fact that the people of this State are being put to great and unnecessary expense by constant changes of the text-books to an extent that is rapidly destroying the efficiency of our public school system together with the near approach of the close of the session, and the large number of bills now on the calendar, create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved June 10, 1897.

Takes effect 90 days after adjournment.

S. B. No. 293.]

CHAPTER 165.

An Act to authorize corporations to engage in the business of becoming surety on bonds, undertakings, recognizances and other obligations required or permitted by law or the charter, ordinances, rules or regulations of any municipality, board, body, organization, court, judge or other public officer, to be made, given, tendered, or filed, with surety or sureties, and guaranteeing the refraining from or performance by another of any act, duty, or obligation, and to regulate such business, and to repeal Chapter XVI, Title 21, of the Revised Statutes of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas: That whenever any bond, undertaking, recognizance, or other obligation is by law or the charter, ordinances, rules or regulations of a municipality, board, body, organization, court, judge, or public officer, required or permitted to be made, given, tendered or filed, with the surety or sureties, and whenever the performance of any act, duty or obligation, or the refraining from any act is required or permitted to be guaranteed, such bond, undertaking, obligation, recognizance or guaranty may be executed by a surety company, qualified as hereinafter provided; and such execution by such company of such bond, undertaking, obligation, recognizance or guaranty shall be in all respects a full and complete compliance with every requirement of every law, charter, rule or regulation that such bond, undertaking, obligation, recognizance or guaranty shall be executed by one surety or by one or more sureties, or that such sureties shall be residents or householders or freeholders, or either or both, or possess any other qualification; provided, that nothing herein shall be construed to permit any corporation to become a surety upon the official bond of any State or County official in this State; and all courts, judges, heads of departments, boards, bodies, municipalities and public officers of every character, shall accept and treat such bond, undertaking, obligation, recognizance or guaranty when so executed by such company as conforming to and fully and completely complying with every requirement of every such law, charter, ordinance, rule or regulation.

Sec. 2. That such company to be so qualified to so act as surety or guarantor, must comply with the requirements of every law of this State applicable to such company doing business therein; must be authorized under the laws of the State where incorporated, and under its charter to become surety upon such bond, undertaking, obligation, recognizance or guaranty; must have a fully paid up and safely invested and unimpaired capital of at least \$100,000; must have good available assets exceeding its liabilities, which liabilities for the purpose of this act shall be taken to be its capital stock, its outstanding debts and a premium reserve at the rate of fifty per centum of the current annual premiums on each outstanding bond, undertaking, recognizance and obligation of like character in force; must file with the commissioner of insurance, statistics, history and agriculture, a certified copy of its certificate of incorporation, a written application to be authorized to do business under this act, and also, with such application, and in each year thereafter a statement verified under oath made up to December 31st, preceding, stating the amount of its paid up cash capital, particularizing each item of investment, the amount of premiums upon existing bonds, undertakings,

recognizances and obligations of like character in force upon which it is surety; the amount of liability for unearned portion thereof estimated at the rate of fifty per centum of the current annual premiums on each such bond, undertaking, recognizance and obligation in force, stating also, the amount of its outstanding debts of all kinds, and such further facts as may be by the laws of this State required of such company in transacting business therein; and if such company be organized under the laws of any other State than this State it must also have on deposit with a State officer of one of the States of the United States, not less than \$100,000 in good securities, deposited with and held by such officer for the benefit of the holders of its obligations; must also appoint an attorney in this State upon whom process of law can be served, which appointment shall continue until revoked or another attorney substituted, and must file with the commissioner of insurance, statistics and history and agriculture written evidence of such appointment, which shall state the residence and office of such attorney; and such service of process may also be made upon the commissioner of insurance of this State, by virtue of his office, and shall be as effective as if made upon said attorney; and must also have on deposit with the treasurer of this State at least \$50,000 in good securities, worth at par and market value at least that sum, of the value of which securities the commissioner of insurance shall judge, held for the benefit of the holders of the obligations of such company; said securities so deposited with said treasurer to remain with him in trust to answer any default of said company as surety upon any such bond, undertaking, recognizance or other obligation, established by final judgment upon which execution may lawfully be issued against said company; said treasurer and his successors in office being hereby directed to so receive and hereafter retain such deposit under this act, in trust, for the purposes hereof; such company, however, at all times to have the right to collect the interest, dividends and profits upon such securities, and from time to time to withdraw such securities or portions thereof, substituting therefor others of equally good character and value, to the satisfaction of said treasurer, and such securities and substitutes therefor shall be at all times exempt from and not subject to levy under writ or process of attachment; and, further, shall not be sold under any process against such company until after thirty days notice to said company, specifying the time, place and manner of such sale, and the process under which and purposes for which it is to be made, accompanied by a copy of such process; provided, however, that whenever any such company, domestic or foreign, has been engaged in this State in the business contemplated by this act, has made deposit in this State, in trust or otherwise, of securities, to answer any default of such company upon any such bond, undertaking, recognizance, guaranty, or stipulation, such securities so deposited shall be by the trustee or custodian thereof transferred and delivered to said treasurer of this State in trust for the same purposes under and subject to all the rights and equities of all parties interested, and to the terms and provisions of this act, and thereupon such deposit shall remain in trust under and subject to the terms and provisions of this act, and whenever such deposit has been made with a trustee by order of any court or other authority, it shall be the duty of the court or other authority, by order or otherwise, to direct such transfer to said treasurer; and in case such deposit is less than the sum of \$50,000, then

said company must deposit with said treasurer securities sufficient to increase said deposit to said sum of \$50,000, as required by this act; provided, domestic corporations chartered for the purpose of doing business under this act within this State alone shall be required to deposit securities as hereinbefore provided for to the amount of \$25,000.

Sec. 3. That the commissioner of insurance, statistics, history and agriculture, upon due proof by any such company of its possessing the qualifications in this act specified, shall issue to such company a certificate setting forth that such company has qualified, and is authorized for the ensuing year to do business under this act, which said certificate shall be evidence of such qualification of such company, and of its authorization to become and to be accepted as sole surety on all bonds, undertakings, recognizances and obligations required or permitted by law or the charter, ordinances, rules or regulations of any municipality, board, body, organization or public officer, and the solvency or credit of such company for all purposes, and its sufficiency as such surety.

Sec. 4. That any such company, domestic or foreign, may, at any time surrender to the commissioner of insurance, statistics, history and agriculture its said certificate of qualification, and shall thereupon cease to engage in said business of suretyship; and such company shall thereupon be entitled to the release and return of its said deposit as aforesaid, in manner following: Said company shall file with said commissioner of insurance, statistics, history, and agriculture, a statement in writing, under oath, giving the date, name and amount of all its then existing obligations of suretyship in this State, briefly stating the facts of each case to said commissioner of insurance, statistics, history, and agriculture, who, after examination of the facts, shall require said company to file with the treasurer of this State a bond, payable to the State, in a sum equal to the whole amount of its liability in this State, under its contracts, conditioned for the faithful performance and fulfillment of all its outstanding obligations, or it may at its option, reinsure its risks in some surety company authorized to do business in this State, or cancel all bonds on which it is liable, and return a pro rata of the premium received thereon, whenever such cancellation and return can be done without impairing its obligation to third parties.

Sec. 5. Any surety company may withdraw from the bond of any trustee, guardian, assignee, receiver, executor, administrator or other fiduciary, in like manner and by like proceeding as is now provided by law in the case of individual sureties.

Sec. 6. If any suit shall be instituted upon any bond or obligation of any surety company, the proper court of the county wherein said bond is filed shall have jurisdiction of said cause, and service therein shall be made either upon the attorney for said company, by this act required to be appointed, or upon the commissioner of insurance, and such service shall be to all intents valid and effectual as service upon said company. And such guaranty, fidelity, and surety companies shall be deemed resident of the counties wherever they may do business, and the doing or performing any business in any county shall be deemed an acceptance of the provisions of this act.

Sec. 7. Should any company of the character named or enumerated in this act, fail or refuse to pay any loss by it incurred in this State within sixty days after its liability thereupon shall have been by suit finally

determined, upon satisfactory proof, to the treasurer of this State, of such liability and of its non-payment, said treasurer shall, out of the deposits so made with him, as by this act provided, pay said loss, and when he shall have done so, he shall, at once, certify to the commissioner of insurance the fact of such default on the part of said company, whereupon said commissioner shall forthwith cancel and annul the certificate of authority of such company to do business in this State; provided, that such payment shall not operate to release the company from payment of any balance which it still may owe after such payment by the treasurer of this State has been made.

Sec. 8. Any person who solicits business for or on behalf of such corporation, or makes or transmits for any person other than himself, any application for guaranty or security, or who advertises or otherwise gives notice that he will receive or transmit same, or who shall receive or transmit same, or who shall receive or deliver a contract of guaranty or security, or who shall examine or investigate the character of any applicant for guaranty or security than himself, or who shall refer any applicant for guaranty or security to such corporation, whether any of said acts shall be done at the instance and request, or by the employment of such corporation, or other corporation or person, or any person who shall issue indemnifying bonds or contracts, whose solvency and compliance with his said bonds or obligations is guaranteed directly or indirectly by any corporation, shall be held to be the agent of such corporation so far as relates to all the liabilities and penalties prescribed by this act.

Sec. 9. Any person, association of persons or corporations, who shall accept any corporation created for the purposes, or either of them, mentioned in Section 1 of this act, without such corporation having previously complied with the provisions and requirements of this act, and having received from the commissioner of agriculture, insurance, statistics and history the certificate of authority provided for in this act, shall forfeit as a penalty the sum of five hundred dollars, to be recovered by suit in the name of the State in any court of competent jurisdiction.

Sec. 10. When any corporation shall cancel a bond of guaranty or indemnity, or shall notify the employer of the person whose fidelity is guaranteed, that said corporation will no longer guarantee or be security for the fidelity of said person, or when said corporation has once guaranteed the fidelity of any person, or acted as security therefor, and on application refuses to do so again, it shall furnish to such person a full statement in writing of the facts on which the action of the corporation is based, and if such action be based in whole or in part on information, all such information; and any such corporation failing or refusing to furnish any such written statement within thirty days after a request therefor, shall be liable to such person injured in the sum of five hundred dollars, in addition to all other damages caused thereby, which may be sued for and recovered in any court of competent jurisdiction.

Sec. 11. If any such corporation shall fail or refuse to comply with the provisions of this act, the commissioner of agriculture, insurance, statistics and history shall revoke the certificate of authority issued said corporation.

Sec. 12. Corporations created for the purposes mentioned in Section 1 of this act are hereby declared to be charged with a public use.

Sec. 13. That Chapter 16, of Title 21, of the Revised Statutes of the State of Texas, and all other laws and parts of laws in conflict with the provisions of this act, be and the same are hereby repealed.

Sec. 14. Whereas, the conflict and uncertainty of the law relating to guaranty and fidelity companies, operates a great inconvenience to a large number of the citizens of the State who desire to give bonds by means of such companies, thereby relieving individuals from the necessity of such bonds, creates an imperative public necessity and emergency which authorizes the suspending of the constitutional rule requiring bills to be read on three several days; therefore said rule is suspended, and this bill shall take effect and be in force from and after its passage, and it is so enacted.

Approved, June 10, 1897.

[Note.—The foregoing act passed the Senate by a vote of yeas 16, nays 6; and having passed the house with amendments, vote not given, the Senate concurred in the House amendments by a two-thirds vote, yeas 22, nays 5.]

S. B. No. 363.]

CHAPTER 166

An Act to authorize the Texas Central Railroad Company to purchase, own and operate the railway extending from the town of Bremond, in Robertson county, to the town of Ross, in McLennan county, commonly known as the Waco & Northwestern division of the Houston & Texas Central Railway, with its appurtenances, or any part thereof, and to authorize a corresponding increase in the authorized aggregate of the bonds and stock of said Texas Central Railroad Company.

Section 1. Be it enacted by the Legislature of the State of Texas: That the Texas Central Railroad Company be and it is hereby authorized to purchase, own and operate the railway from the town of Bremond, in Robertson County, to the town of Ross, in McLennan County, commonly known as the Waco & Northwestern division of the Houston & Texas Central Railway, with its appurtenances, or any part thereof, and, in case the same, or any part thereof, shall be so purchased, the aggregate amount of bonds and stocks which may be issued by said Texas Central Railroad Company shall be increased by the value of such railway and its appurtenances so purchased, or of the portion thereof purchased by said railroad company, as such value has been or shall be ascertained and determined by the railroad commission of the State of Texas under the provisions of the act of the legislature of the State of Texas, entitled "An act to define franchises; to make public the value of railroads; to make effective Section 6, Article 12, of the Constitution of the State of Texas; to declare the effect of judicial and other sales of railroads; to limit the amount of stocks and bonds and other indebtedness that may be issued by railroad companies, and to regulate the manner of issuing, registering and securing the same; to prescribe penalties for violating the provisions of this act, and to prescribe the duties of the railroad commission and the attorney general in relation thereto," approved April 8, 1893, and any amendments made or which may be made thereto. It is

provided, however, that the Texas Central Railroad Company shall be liable for all the outstanding indebtedness of the Waco and Northwestern. of every kind whatsoever.

Sec. 2. Be it further enacted, that any such purchase shall be valid and binding only when approved by the assent of the holders of at least two-thirds of the outstanding capital stock of said Texas Central Railroad Company, given in writing or at a meeting of the stockholders of said railroad company, and upon the filing with the railroad commission and with the Secretary of State of such assent in writing or a certified copy of the record of the proceedings of such corporate meeting, together with a certificate from the secretary of said railroad company that such assent in writing has been executed or the approval of such purchase at such meeting was assented to by the holders of at least two-thirds of the outstanding capital stock of said railroad company.

Sec. 3. The near approach of the close of the session and the crowded condition of the calendar create an emergency and an imperative public necessity requiring the constitutional rule to be suspended which requires bills to be read on three several days in each house, and this act shall take effect from and after its passage, and it is so enacted.

[Note.—The foregoing act passed the Senate by a two-thirds vote, yeas 21, nays 1; and passed the House, vote not given.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Friday, the twenty-first day of May, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

H. B. No. 543.]

CHAPTER 167.

An Act to authorize the Galveston, La Porte & Houston Railway Company to acquire by purchase, lease or otherwise, all the rights, privileges, franchises and property of the Galveston & Western Railway Company, and to operate, maintain and use the same.

Section 1. Be it enacted by the Legislature of the State of Texas: That the Galveston, La Porte & Houston Railway Company shall have the right to acquire by purchase, lease or otherwise, all the rights, privileges, franchises and property of the Galveston & Western Railway Company, and to operate, maintain and use the same; and the right is hereby conferred upon the Galveston & Western Railway Company to sell, lease or otherwise transfer all its rights, privileges, franchises and property to the Galveston, La Porte & Houston Railway Company.

Sec. 2. That each of said railway companies shall have all powers necessary to carry into effect the provisions of this act, including the right of the Galveston, La Porte & Houston Railway Company to issue its bonds in exchange for a [or] payment of the stock of the Galveston & Western Railway Company at such price, and upon such terms as may be agreed upon by said companies, and the bonds so issued may also be

secured by a first lien upon the rights, privileges, franchises and property so transferred by the Galveston & Western Railway Company.

Sec. 3. No sale, lease, or other agreement made between said railway companies shall be binding until the same shall be sanctioned by a vote of the holders of three-fourths of the stock of each of the contracting companies and approved by the railroad commission of Texas. The agreement, when thus sanctioned and approved, shall be recorded in the office of the Secretary of State of the State of Texas.

Sec. 4. The near approach of the close of the present session of the Legislature, the crowded condition of the calendar of both the Senate and the House, and the fact that the passage of this bill will tend to cheapen the transportation of passengers and freight, creates an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Wednesday, the nineteenth day of May, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

Takes effect 90 days after adjournment.

H. B. No. 673.]

CHAPTER 168.

An Act to authorize the Houston & Texas Central Railroad Company to purchase, own and operate the railway extending from a point in or near the town of Bremond, in Robertson county, to a point in or near the town of Ross, in McLennan county, with its franchises and appurtenances, and the railway extending from a point in or near said town of Ross to a point in or near the town of Albany, in Shackelford county, with its franchises and appurtenances, or either of such railways with its franchises and appurtenances, or any part or parts thereof, and to authorize the owners thereof to sell the same, and to authorize a corresponding increase in the authorized aggregate of the bonds and stock of said Houston & Texas Central Railroad Company, and to regulate reports of such properties and the operations thereof.

Whereas, the Waco Tap Railroad Company was incorporated by special act of the legislature of the State of Texas, approved November 5th, 1866, entitled "An act to incorporate the Waco Tap Railroad Company," and was authorized by said act, among other things, "to locate, construct, own and maintain a railway commencing at a convenient point on the Houston & Texas Central railroad, within or below the county of Falls, and running thence northwardly by the most eligible route to or near the town of Waco, crossing and recrossing the Brazos river wherever the company may deem it necessary"; and

Whereas, by another special act of the legislature of the State of Texas, approved August 6th, 1870, entitled "An act to amend section 1, 2, 3, 5, 6, 7, 12, 13, 15, 19 and 20, of an act to incorporate the Waco Tap Railroad Company," the name of said Waco Tap Railroad Company was changed to "The Waco & Northwestern Railroad Company," and said company was, among other things, thereby invested with the right "to

locate, construct, own, operate and maintain a railway and telegraph line commencing at a convenient point on the Houston & Texas Central railroad, within or below the county of Falls, and running thence in a northwesterly direction by the most eligible route to or near the town of Waco, crossing or recrossing the Brazos river whenever the company deem it necessary; and thence up the general course of the Brazos river northwestwardly to the vicinity of the copper and coal mining regions of the Brazos river, and thence to the north line of the State of Texas on Red River," and the said company was by said act further granted "the right to cross the line of any other railroad on its line, and to form a junction with any other railroad company running in the same general direction, with full power to unite and consolidate with the same upon such terms as may be agreed upon by the said company, with the power and right to change the name thereof upon such consolidation"; and

Whereas, by another special act of the legislature of the State of Texas, approved May 24th, 1873, entitled "An act to provide for the merger of the Waco & Northwestern Railroad Company, with its properties, rights, privileges and franchises, in the Houston & Texas Central Railway Company," the said Waco & Northwestern Railroad Company was merged into the Houston & Texas Central Railroad Company, and as declared in said act, made, to all intents and for every purpose in law, a part of the Houston & Texas Central railway; and the said Houston & Texas Central Railway Company was thereby authorized and empowered to operate, manage and control the same in the same manner as every other part of said Houston & Texas Central railway, and was given the right to continue the construction of said railroad from the city of Waco in a northwesterly direction in accordance with the terms of the charter of said Waco & Northwestern Railroad Company; and

Whereas, the said Waco & Northwestern railroad was from and after the passage of the last mentioned act, an integral part of the lines of the Houston & Texas Central Railway Company and was so operated and controlled, and the said Houston & Texas Central Railway Company thereafter extended said railroad to the town of Ross, in McLennan county, and thereafter the said railroad was extended by the Texas Central Railway Company from the said town of Ross to the town of Albany or vicinity thereof, in Shackelford county; and the whole of said railroad to the town of Albany or its vicinity was operated by or in connection with the Houston & Texas Central Railway Company; and

Whereas, subsequently, through and by reason of the foreclosure in the Circuit Court of the United States for the Eastern District of Texas, at Galveston, and the Northern District of Texas, at Waco, of separate mortgages upon the different portions of said railroad line, and sales to different purchasers of said properties under such decrees, the said properties became separated and divided, and have since so continued; and

Whereas, it is deemed expedient that such lines should be reunited so far as the owners thereof may agree upon terms for such reuniting thereof; but only upon the terms and conditions hereinafter provided; now, therefore,

Section 1. Be it enacted by the Legislature of the State of Texas: That the Houston & Texas Central Railroad Company be, and it is hereby authorized to purchase, own and operate the railroad commonly known as

the Waco & Northwestern division of the Houston & Texas Central railway, extending from a point in or near the town of Bremond, in Robertson county, via Marlin and Waco, to a point in or near the town of Ross, in McLennan county, with its franchises and appurtenances, and the railway now known as the Texas Central Railroad, extending from a point in or near the said town of Ross, to a point in or near the town of Albany, in Shackelford county, with its franchises and appurtenances, or either of such railways, with its franchises or appurtenances, or any part or parts thereof, and the owners of each of the said railways and their franchises and appurtenances, are hereby authorized and empowered to sell the same or any part or parts thereof, to said Houston & Texas Central Railroad Company.

Sec. 2. That in case the said railways with their franchises and appurtenances, or either thereof, or any part or parts thereof, shall be purchased by the said Houston & Texas Central Railroad Company, the aggregate amount of bonds which may be issued by said Houston & Texas Central Railroad Company shall be increased by the value of such railways and franchises and appurtenances so purchased, or the part or parts thereof purchased by said railroad company, as such value has been or shall be ascertained and determined by the railroad commission of the State of Texas under the provisions of the act of the Legislature of the State of Texas entitled "An act to define franchises; to make public the value of railroads; to make effective Section 6, Article 12, of the Constitution of the State of Texas; to declare the effect of judicial and other sales of railroads; to limit the amount of stocks and bonds and other indebtedness that may be issued by railroad companies, and to regulate the manner of issuing, registering and securing the same; to prescribe penalties for violating the provisions of this act, and to prescribe the duties of the railroad commission and the attorney-general in relation thereto," approved April 8th, 1893, and any amendments made or which may be made thereto, but not otherwise.

Sec. 3. That this act shall not become binding, nor shall any such purchase or purchases be valid until the agreement in writing evidencing such purchase or purchases shall have been filed in the office of the secretary of state, which agreement, when so filed, shall be deemed and taken as conclusive evidence of the acceptance of the terms, provisions, and conditions of this act by the corporations and persons executing the same.

Sec. 4. That all and singular the railways and their franchises and appurtenances so sold shall be bound and liable upon and after any such sale to the same extent that each is now bound or liable, and no debt or claim against the owners of any of the properties, franchises and appurtenances so sold, or said properties, whether arising upon contract or from tort or otherwise, shall be in a [any] way affected or impaired by such sale, and any claim, suit or action of any character whatsoever by or against either of the owners of said properties so sold before such sale thereof, shall or may be prosecuted after any such sale in the same manner and to the same effect, and enforced in the same way, as if no such sale had been effected.

Sec. 5. That after any such purchase the said Houston & Texas Central railroad company shall embrace such properties purchased by it and the operations thereof in the reports required to be made to the rail-

road commission of Texas or to any other officer or department of the government of that State by railroad companies and persons operating railroads, and the former owners of such properties so sold shall not be required to make reports in respect thereof.

Sec. 6. That the near approach of the close of this session and the large amount of business remaining to be disposed of before final adjournment, creates an imperative public necessity and emergency which authorizes the suspension of the rule requiring bills to be read on three several days, and such rule is hereby suspended.

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Friday, the fourteenth day of May, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Mad-den, Secretary of State.]

Takes effect 90 days after adjournment.

H. B. No. 49.]

CHAPTER 169.

An Act to transfer to the general revenue account the unexpended balance of the United States direct tax fund remaining in the State Treasury on the second day of March, 1897; the same to be used in the payment of the current expenses of the State government.

Section 1. Be it enacted by the Legislature of the State of Texas: That the unexpended balance in the State treasury on the second day of March, 1897, to the credit of the United States direct tax fund, except so much thereof as may be necessary to pay any outstanding warrants against said fund unrepresented on the said 2nd day of March, 1897, and also excepting any and all valid claims against said fund, legal proofs of which said claims are on said 2nd day of March, 1897, on file in the comptroller's office, be and the same is hereby transferred to the general revenue account, to be used in payment of the current expenses of the State government; provided, that the comptroller be required to issue his warrant against the direct tax fund for all valid claims for penalty, interest and costs, heretofore filed, or that may have been filed and approved by him on or before March 2nd, 1897.

Sec. 2. That the comptroller of public accounts shall, on the said 2nd day of March, 1897, make such entries on the books of his department as will show the transfer directed in section 1 of this act and shall notify the State treasurer of said transfer.

Sec. 3. Whereas, the provisions of this act will place in the State treasury to the credit of the general revenue account additional funds necessary for the current expenses of the State government; therefore, an emergency exists that the constitutional rule requiring this bill to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act passed the House by a two-thirds vote, yeas 112, nays 1; and passed the Senate by a two-thirds vote, yeas 23, nays none, and Senate amendment concurred in, vote not given.]

[Note.—The following act was presented to the Governor of Texas for his approval, on Friday, the twenty-first day of May, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

H. B. No. 25.]

CHAPTER 170.

An Act to create a Judicial District in Harris County additional to the Eleventh Judicial District existing therein, to be the Fifty-fifth Judicial District; to establish a Court and provide for a Judge and Clerk of such new district; and to regulate the venue of the Courts of said respective districts and the disposition of business therein, and define the jurisdictional boundaries and terms thereof.

Section 1. Be it enacted by the Legislature of the State of Texas: That the county of Harris shall compose, in addition to the Eleventh Judicial District now existing by law and continued in force, the Fifty-fifth Judicial District as well; and the jurisdiction of the district courts in and for said Eleventh and said Fifty-fifth Judicial Districts shall be concurrent and co-extensive with the limits of said Harris county.

Sec. 2. That the terms of the district court of said Eleventh Judicial District shall be begun and holden as now provided by law, to-wit, in said Harris county on the first Monday in February, April, June, October and December of each and every year, and may continue in session until the business of the court is disposed of.

Sec. 3. The terms of the district court of said Fifty-fifth Judicial District shall be begun and holden in said county of Harris on the first Monday in January, March, May, September, and November of each and every year, and may continue in session until the business of the court is disposed of.

Sec. 4. The judges of each and both of said courts shall be elected at the times and in the manner provided by law, by the qualified voters of Harris county; but the judge of the district court of the Eleventh Judicial District shall continue as judge thereof, holding his office as provided by law with the tenure thereof unaffected by this act; and immediately after this act shall become law, the governor shall appoint a judge of the Fifty-fifth Judicial District, having the necessary qualifications, who shall hold his office under such appointment until the next general election, and until his successor shall have been elected and qualified.

Sec. 5. Immediately upon the taking effect of this act, the cases upon the docket of the said Eleventh Judicial District shall be divided between that court and the court of the Fifty-fifth Judicial District, as equally as may be, by transferring every alternate case to the court of the Fifty-fifth Judicial District, leaving the first undisposed of case oldest in number in the court of the Eleventh Judicial District; and thereafter, in subsequent suits or actions or proceedings, it shall be sufficient in every instance for the address or designation to be merely the district court of Harris county, and the clerk of said courts shall file and docket the even numbers thereof in the court of the Eleventh Judicial District,

and the odd numbers thereof in the court of the Fifty-fifth Judicial District; but any case pending in said courts may, in the discretion of the respective judges thereof, be transferred from one of said district courts to the other, and so from time to time; and in case of the disqualification of the judge of either of said courts in any case, such case, on his suggestion of disqualification, shall stand transferred to the other of said courts, and be docketed by the clerk accordingly.

Sec. 6. In order to expedite the dispatch of business, a term of the court of the said Fifty-fifth Judicial District may be begun and holden on the first Monday after the appointment and qualification of the judge thereof, at which term juries may be drawn for the ensuing regular term, non-jury cases tried by consent of the parties, and all necessary preliminary proceedings and interlocutory orders had and made, conducive to the prompt dispatch of business at the ensuing regular terms.

Sec. 7. The clerk of the district court of the Eleventh Judicial District shall perform the duties of clerk of the district court of the Fifty-fifth Judicial District; and in case of vacancy in said office of clerk, the same shall be filled by appointment of the judge of the Eleventh Judicial District.

Sec. 8. All writs and process heretofore issued or that may hereafter be issued up to the time this act shall take effect, which are made returnable to the district court of the Eleventh Judicial District, shall be returnable to the court in which the cause may remain or to which it may be transferred, in like manner as if originally made returnable to said court, and all such writs and process are hereby legalized and validated.

Sec. 9. That all laws and parts of laws in conflict with this act be and the same are hereby repealed.

Sec. 10. That the crowded condition of the docket of the district court of the Eleventh Judicial District, whereby great delay, hardship and expense are entailed upon the litigants and taxpayers of Harris county, creates an emergency and an imperative public necessity requiring the constitutional rule for bills to be read on three several days to be suspended, and said rule is hereby suspended, and this act shall take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Friday, the fourteenth day of May, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

Takes effect 90 days after adjournment.

THE STATE OF TEXAS,
Department of State.

I, J. W. Madden, Secretary of State of the State of Texas, certify that the foregoing laws and resolutions, passed at the regular session of the Twenty-fifth Legislature, have been carefully examined and compared with the original enrolled bills, now on file in this department, and are true copies of said originals.

I further certify that the Twenty-fifth Legislature convened in the city of Austin January 12, A. D. 1897, and adjourned May 21, A. D. 1897.

[Seal.] In testimony whereof, I have subscribed my name and have hereto affixed the seal of the State of Texas, in the City of Austin, this July 30th, A. D. 1897.

J. W. MADDEN,
Secretary of State.

RESOLUTIONS.

S. C. R. No. 1.] CONCURRENT RESOLUTION.

Welcoming the Hon. William J. Bryan to Texas.

Whereas, The Hon. William Jennings Bryan, of Nebraska, the brilliant orator, grand statesman and matchless tribune of the people, at the last election democratic candidate for president of the United States, contemplates an early visit to this State; therefore, be it

Resolved by the Senate, the House of Representatives concurring, That in the name of all the people the Legislature of Texas welcomes the distinguished gentleman to our grand State, and voice the wish that his stay among us may be prolonged and agreeable.

Be it further resolved, That a cordial invitation is hereby extended Hon. W. J. Bryan to visit the capital of the State as the guest of the Legislature during his sojourn in Texas.

Be it further resolved, That his Excellency, Hon C. A. Culberson, Governor of Texas, be and he is hereby requested to transmit to the Hon. W. J. Bryan a copy of this concurrent resolution, certified by the great seal of the State.

Approved, January 18, 1897.

H. C. R. No. 6.] CONCURRENT RESOLUTION.

For printing Rules, Constitution, Standing Committees, and Lists of Officers and Members of each House.

Resolved by the House of Representatives, the Senate concurring, That there be printed and bound three hundred copies of a book containing the rules of the Senate, the rules of the House of Representatives, the joint rules of the two houses, the Constitutions of the United States and of the State of Texas, properly indexed and annotated, also a list of the officers, standing committees and members of each house, one hundred copies of the same to be for the use of the Senate and two hundred copies for the use of the House; the printing to be done under the supervision of the chairmen of the committees on printing and the committees on rules of the two houses.

Approved, January 30, 1897.

S. J. R. No. 7.]

JOINT RESOLUTION.

To Amend Article 8 of the Constitution of Texas, so as to permit the formation of irrigation districts in West Texas.

Be it resolved by the Legislature of the State of Texas: That Article 8 of the Constitution of the State of Texas be amended by adding thereto Section 20, as follows:

Section 20. In addition to the powers of taxation granted in the foregoing sections, it shall be lawful for the land owners of certain portions of Texas, as hereinafter provided, to organize within that section of Texas which lies west, northwest and southwest of the following counties, viz: Montague, Wise, Parker, Hood, Somervell, Bosque, Coryell, Bell, Williamson, Travis, Blanco, Gillespie, Comal, Caldwell, Gonzales, De Witt, Goliad, Victoria and Calhoun, irrigation districts without regard to county lines. In making provision for the cost of construction of irrigation works within said territory it shall be lawful to create an indebtedness of not exceeding fifteen dollars per acre to rest as a charge on and be secured by a lien on the irrigable land for the use and benefit of which said irrigation works have been or may be constructed. Within the term, cost of construction, shall be included the cost of riparian rights, dam sites and reservoirs, rights of way for canal and laterals, and other appurtenant expenses of the construction of irrigation plants. In case of destruction of the works, or any part thereof, the repair or rebuilding of the same shall be construed to be within the meaning of construction. To cover the cost of construction as above defined, bonds may be issued by such irrigation districts to run in time for forty years or less, and to bear interest at the rate of not more than six per cent per annum, interest payable annually, which bonds shall be sold at not less than par. The bonds shall be liquidated by the levy and collection of a tax upon the irrigable lands within such irrigation districts susceptible of irrigation from and by the system of irrigation works proposed. Such land shall be taxed in proportion to acreage and not in proportion to its value. An annual tax shall be levied and collected on such irrigable lands sufficient to pay the interest of said bonds and to create a sinking fund sufficient to liquidate the bonds above authorized. In addition to the tax above provided for, there shall be annually levied and collected a sufficient tax from the lands actually receiving the water for irrigation of a sufficient amount to cover the ordinary cost of the maintenance of the irrigation works, the distribution of the water and appurtenant charges and the collection of said tax. This charge shall be upon a basis of the amount of water contracted for; provided that this shall not interfere with the right of any land owner to demand his proportionate part of the water on the basis of acreage. The taxes above provided for shall when assessed, be secured by lien on the land as now provided by the general law for the security of State taxes, and when delinquent, shall be enforced as now provided by general law for the collection of delinquent State taxes, but the lien securing the same shall be subordinate to the lien securing the payment of State, county and municipal taxes.

None of the foregoing provisions of this amendment shall ever be construed to give authority to create a lien on or tax in any manner any

lands so long as they shall belong to the State; nor after sale thereof shall any charge ever be created thereon which shall take precedence over the liens securing the balance of the purchase money due the State.

The indebtedness for the construction of irrigation works authorized under the provisions of this amendment shall be created only upon a vote of a majority of the land owners resident in the district proposed to be organized and whose lands are susceptible of irrigation from and by the system of irrigation works proposed; only qualified voters under the existing laws of Texas, being such owners of rural lands, within such districts, shall have the right to vote as aforesaid.

Any natural or artificial person having an interest in any of the irrigable lands in any such irrigation district shall have the right at any time within ninety days after the vote authorized has been declared, and not thereafter, to file a proceeding in any court having jurisdiction to test the validity of the formation of said district, the classification of the land as irrigable lands, or other details thereof. Such proceedings shall have precedence through all the courts as now provided by law in quo warranto suits.

Irrigation districts organized under the provisions of this amendment are hereby declared to be bodies corporate, and in the name of the districts they shall have the right to sue and be sued, and may acquire by purchase or condemnation proceedings as now authorized by law in the case of irrigation corporations all the property necessary for its organization, operation and existence, and may buy in under foreclosure of its taxes any property, but the property bought in at tax sales shall be held and disposed of as hereafter provided by law.

All bonds issued under the provisions of this amendment shall be passed upon and certified to by the Attorney General of the State of Texas, as now required by law in the case of county and city bonds. When approved by the Attorney General said bonds shall be registered by the Comptroller of the State, as now required by law in the case of county and city bonds, and when so registered shall be entitled to all the faith and confidence now prescribed by law in the case of county and city bonds.

To the end that this amendment may be put into immediate operation upon its adoption by the people, it is provided that until otherwise provided by law the Governor of the State, the Commissioner of the General Land Office, and the Attorney General of the State, are hereby created a board and vested with complete power and authority to make such rules and regulations as may be necessary to put into immediate practical operation this amendment to the Constitution and that may be necessary to enable irrigation districts to organize and operate under the provisions of this amendment. And to that end, until otherwise provided by law, said board shall have the power and authority in making said rules as complete as the Legislature of the State of Texas now have to enact laws. The rules, when adopted by said board, shall be filed with the Secretary of State, and when so filed shall remain in full force and effect until changed or modified by some other rule made by the said board on file in the office of the Secretary of State, or until the same are changed by general law. Said rules shall be printed under the direction of the Secretary of State, and a certified copy thereof shall be fur-

nished to any one demanding the same upon the payment of such fees as said board may prescribe.

The Governor is hereby directed to issue the necessary proclamation for submitting this amendment to the qualified voters of Texas on the first Tuesday in August, 1897, at which election all voters favoring the amendment shall have written or printed on their tickets, "For amending Article 8, of the Constitution of Texas, so as to permit the formation of irrigation districts in West Texas," and those opposed to said amendment shall have written or printed on their tickets, "Against amending Article 8, of the Constitution of Texas, so as to permit the formation of irrigation districts in West Texas."

Approved, March 3, 1897.

[Note.—The foregoing joint resolution passed the Senate by a two-thirds vote, yeas 23, nays 1; and having passed the House by a two-thirds vote, yeas 90, nays 6, the Senate concurred in House amendments.]

S. C. R. No. 15.] CONCURRENT RESOLUTION.

Tendering thanks of the people of Texas to the Honorable Swante Palm for donation of his library to the State University.

Whereas, The Honorable Swante Palm, a distinguished citizen of Austin, and the consular representative of His Majesty, the King of Sweden, at the Texas capital, has manifested his patriotic and generous interest in the intellectual development of the youth of the State, by making to the Texas State University, a free donation of his magnificent library, consisting of rare volumes, valuable manuscripts, and costly works of art; and,

Whereas, it is appropriate that, as an inadequate, but sincere recognition of this splendid gift, the Legislature of this State, representing the whole people, should give formal expression of the people's gratitude to the Honorable Swante Palm; therefore,

Be it resolved by the Senate of the State of Texas, the House concurring: That the people of the State of Texas, without regard to political sentiment, and each constituency speaking through its Senator, and member or members of the House of Representatives, hereby tender to the Honorable Swante Palm, their profound thanks for his splendid gift.

Resolved, that an enrolled copy of this Concurrent Resolution, signed in autograph by the President and Secretary of the Senate, and the Speaker and Chief Clerk of the House of Representatives, and countersigned by the Governor and Secretary of State, and bearing the impress of the seal of the State, be presented to the Honorable Swante Palm, by a joint committee of two Senators, to be appointed by the President of the Senate, and three Representatives, to be appointed by the Speaker of the House of Representatives.

Approved, March 4, 1897.

H. C. R. No. 7.] CONCURRENT RESOLUTION.

Empowering the Governor of Texas to call a Cotton Growers' Convention, and inviting delegates from all Cotton growing States.

Whereas, the cotton industry of the South is a most important agricultural product of the United States, and in volume more than sixty-five per cent of the world's product of cotton; and the condition of this great industry, being now depressed by speculators who control and reduce the price, in their own interest, by the following methods, among others:

By offering for sale fictitious cotton called, "futures," at prices uniformly less than the current spot cotton market, which sales or fictitious cotton or contracts to deliver cotton at a future time at lower prices than the actual spot cotton prices, and in which speculators do not intend, and are not compelled to deliver actual cotton, but uniformly pay or receive the monetary difference in the price of futures and spot cotton at the expiration of the contract of delivery; these contracts being cheaper, induce mill men and consumers of the raw material, who heretofore competed in the spot cotton sales, to withdraw from the market, thus fostering a condition which takes from the cotton market the actual purchaser, destroys legitimate market demand and competition, and leaves the cotton product at the mercy of dictated prices. By flooding the market reports of actual sales of spot cotton with five to ten times the volume of fictitious sales at lower figures, thus producing a constant decrease in the price of real cotton. By operating a gambling enterprise known as the "New York Future Board," in which fictitious cotton is offered for sale in the market at prices sufficiently reduced below spot cotton prices to invite investment, and wherein the said investments are virtually confiscated by arbitrary changes in said quotations, whereby the country is drained of enormous sums of money, and the cotton market fluctuated for gambling purposes, to the great detriment of legitimate trade; thus producing the decline in the price of cotton as observed in our markets since the organization of the New York Cotton Exchange and its "Futures Board;" and

Whereas, The price of labor necessary to raise and market a given quantity of cotton, in comparison with the price of labor necessary to manufacture and market the same quantity of cotton is of the ratio of two to three, and under legitimate conditions of trade, and estimates most favorable to manufactures, raw cotton should sell for not less than fifty per cent of the manufactured articles, yet the situation is such that the price of cotton has been so depressed by speculation and market gambling until manufactured goods sell for prices from four hundred to fourteen hundred per cent more than the material that composes such goods, and a vast wealth that should be distributed among its producers is annually confiscated by the unbridled greed of speculators; and

Whereas, The history of cotton production shows that the world's demand has increased at a greater ratio than the world's supply, and as measured by the surplus on hand at the end of each cotton season, the surplus has grown less for more than twenty years, proving the falsity of the cry of over-production, as proclaimed by speculators, and reveal-

ing facts that under proper conditions would have made prices steady, and improved during that time; and

Whereas, These and other conditions make it necessary that legislation be contrived and enacted to relieve cotton producers from these oppressive, unjust and ruinous conditions:

Therefore, be it resolved by the House of Representatives, the Senate concurring, That Governor C. A. Culberson be, and he is hereby empowered to call a legislative convention of the cotton growing States, to meet at Galveston, on the 2nd day of August, 1897, for the purpose of devising and recommending concurrent legislation in the cotton growing States, to the end that this important industry may be relieved from the speculative and gambling influence that oppresses it, and that unlawful interference with the cotton trade be suppressed.

Be it further resolved, That the Governor of Texas appoint from each congressional district in Texas, a representative to said convention, who is versed in the industrial conditions of our State, and two from the State at large, and that his excellency forward copies of this resolution to the respective governors of our cotton growing States, with the request that such governor appoint delegates from the congressional districts of their States to said convention.

Approved, March 20, 1897.

H. C. R. No. 16.] CONCURRENT RESOLUTION.

Favoring improvement by Congressional appropriation of harbor at the mouth of the Brazos River, and opening said river to navigation as far as practicable.

Whereas, a board of engineers, appointed under an act of Congress, have reported that the opening of a harbor at the mouth of the Brazos River is feasible, and that there are valid commercial reasons that justify the general government in undertaking the work, therefore:

Be it resolved by the House of Representatives, the Senate concurring, First. That we favor an appropriation by Congress for the improvement, maintenance and control of said harbor by the government of the United States.

Second. An appropriation for the improvement and opening of the Brazos River to navigation as far as may be found practicable.

Third. That our senators and representatives in Congress are respectfully requested to use their best endeavors to secure such appropriations as may be necessary for these purposes.

Be it further resolved, That the Chief Clerk of the House of Representatives transmit to each of our senators and representatives in Congress a copy of these resolutions.

Approved, March 20, 1897.

H. C. R. No. 17.] CONCURRENT RESOLUTION.

Favoring national aid to the Afro-American Fair and Inter-State Exposition Co.

Whereas, there has been projected and permanently organized and incorporated the worthy institution known as the "Afro-American Fair and Inter-State Exposition Co.," the object of which is the encouragement of the education, the advancement in the arts, sciences and general husbandry of the Afro-Americans residing in the United States, and,

Whereas, the same being of national importance, looking toward the elevation and improvement of said race, now, therefore,

Be it resolved by the House of Representatives of the State of Texas, the Senate concurring, That the said Afro-American Fair and Inter-State Exposition is worthy of the aid and support of the citizens of the State of Texas and of the United States, and that the same should be encouraged to that extent as will guarantee the permanent and successful operation of the same. That the same being in its character of great national importance should be aided by national legislation and appropriation to such a degree as will assure its success and permanency.

Be it further resolved, That while the organic law of our State forbids appropriations to individuals or corporations for the purposes for which the Afro-American Fair and Inter-State Exposition is organized, yet we recognize its great usefulness, and commend to the people of the State and nation this worthy undertaking.

Approved, March 26, 1897.

S. C. R. No. 17.] CONCURRENT RESOLUTION.

Authorizing and empowering "The Daughters of the Republic of Texas" to place a Statue of one of the Fathers of Texas in the Hall of Statuary in the national Capitol at Washington, District of Columbia.

Whereas, two spaces in the Hall of Statuary in the national capitol at Washington have been allotted to each State in the Union by act of Congress, for the purpose of doing honor to the illustrious dead of each State; and

Whereas, both of the spaces so allotted to the State of Texas are yet unoccupied; and

Whereas, there is an organization within the State of Texas known as "The Daughters of the Republic of Texas," a corporation composed of the female descendants of the first settlers in Texas, the founders and builders of the great State we have the honor to represent; and

Whereas, "The Daughters of the Republic of Texas" are desirous of placing within one of the allotted spaces, at their own cost and expense, a statue in memory and in honor of one of the Fathers of Texas:

Section 1. Therefore be it resolved by the Legislature of the State of Texas: That "The Daughters of the Republic of Texas," acting by and through its duly elected officers, be, and it is hereby authorized to erect and place within one of the allotted spaces assigned to the State of Texas in the Hall of Statuary, in the national capitol at Washington, a statue

representing, and in memory of one of the Fathers of Texas; said statue, before being placed in said Hall of Statuary, to be approved by a State commission consisting of the Governor, the Comptroller, and the Attorney General of the State of Texas.

Sec. 2. That the Legislature of the State of Texas hereby tenders its thanks to Mrs. Anson Jones, Mrs. Andrew Briscoe, Mrs. Rebecca Gil-
leland Fisher, Mrs. Belle Sherman Kendall, Mrs. Minnie Phelps Vasmar, Mrs. Mary Fenn McKeever, Miss Bettie Ballinger, Miss Belle Fenn, Mrs. Adele Briscoe Looscan, Miss Hallie Bryan, Mrs. Cornelia Stone, Mrs. Emily Perry Moore, Mrs. Marie Bennett Urwitz, Mrs. Elizabeth Lockhart Landers, Mrs. John Adriance, Mrs. Tennie Hensley Hamilton, Miss Adina de Zavalla, Mrs. Maggie Tod Milby, Mrs. Lucy Sherman Craig, and Mrs. Rosine Ryan, for the generous and patriotic purpose expressed in their desire to keep alive the names and deeds of men who honored Texas.

Approved, April 3, 1897.

S. C. R. No. 17. A.] CONCURRENT RESOLUTION.

Requesting the Governor of Texas to return to the Senate, House Joint Resolution No. 7, entitled "A Joint Resolution ratifying and confirming the action of the attorneys representing the State of Texas in compromising its claims to its University lands in McLennan County, Texas," in order that the same may be presented to the President of the Senate for his signature.

Whereas, at a previous day of the present session of the Legislature, House Joint Resolution No. 7, being entitled "A Joint Resolution ratifying and confirming the action of the attorneys representing the State of Texas is compromising its claim to its University lands in McLennan County, Texas," was introduced and passed both the House of Representatives and the Senate, and has received the signature of the Speaker of the House of Representatives and has been presented to the Governor for his signature, and whereas, by mistake the said resolution was not presented to the President of the Senate for his signature and was not signed by him as required by the Constitution of Texas:

Therefore, be it resolved by the Senate, the House of Representatives concurring, That the Governor of Texas be, and he is hereby requested to return to the Senate the said resolution in order that it may be presented to and receive the signature of the President of the Senate.

Approved, April 3, 1897.

H. C. R. No. 19.] CONCURRENT RESOLUTION.

Requesting the Governor to return House Bills, No. 381, and No. 443, for signature of the Speaker to one, and of the Chief Clerk to the other.

Whereas, in signing of enrolled House Bills, No. 381, and No. 443, the name of the Speaker was accidentally omitted from one and the name of the Chief Clerk from the other, which omissions were not discovered until after said bills had been delivered to the Governor:

Therefore, be it resolved by the House of Representatives, the Senate concurring, That the Governor be and [is] hereby respectively [respectfully] requested to return said bills to the House that the omitted signatures may be placed thereon as the law requires.

Approved, April 3, 1897.

H. J. R. No. 7.] JOINT RESOLUTION.

Ratifying and confirming the action of the attorneys representing the State of Texas in compromising its claim to its University lands in McLennan County, Texas.

Whereas, the 16th Legislature of the State of Texas, at its regular session in 1879, passed a joint resolution authorizing and directing the Attorney General to institute and prosecute such legal proceedings as might be necessary to establish the title of the State to its University lands in McLennan and Hill counties, and to remove all clouds upon said title; and

Whereas, The Seventeenth Legislature, at its regular session in 1881, passed an act to provide for the protection of the State to the University lands in McLennan and Hill counties, and authorized the Governor and Attorney General to employ competent counsel to defend the title of the State to said lands; and

Whereas, In pursuance of said resolution and act, the Governor and Attorney General employed counsel who instituted suit in the Nineteenth Judicial District Court of McLennan County, Texas, to recover of Jennie Lewis and a number of others, defendants therein named, fourteen thousand acres of land lying in McLennan County, Texas; and

Whereas, The State's said attorneys compromised said suit with said defendants, whereby the State reclaimed 6533 acres of the said lands for its entire interest in the same, entered by decree of the court in said cause, and the said defendants were given 7022 acres by the terms of the same decree; and

Whereas, The Appellate Courts of our State have held that the State's said attorneys exceeded their authority in making said compromise, and that the same did not affect the title of the State to its said lands; therefore,

Section 1. Be it resolved by the Legislature of the State of Texas: That the said compromise made by the said attorneys for the State in said cause, be, and the same is hereby in all things ratified and confirmed.

Sec. 2. That the litigation now being instituted and threatened to be

instituted by parties claiming an interest in said lands, causing the people on said lands unnecessary costs and useless expense, creates a public necessity requiring the constitutional rule for bills to be read on three several days to be suspended, and said rule is hereby suspended, and this act shall take effect and be in force from and after its passage.

[Note.—The foregoing joint resolution passed the House by a two-thirds vote, yeas 88, nays 1; and passed the Senate by a two-thirds vote, yeas 23, nays none.]

[Note.—The foregoing joint resolution was presented to the Governor of Texas for his approval, on Friday, the twenty-sixth day of March, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

S. C. R. No. 20.] CONCURRENT RESOLUTION.

Relating to deep water, good harbors, and an open sea, etc.

The fact that deep water, good harbors, and an open sea, now exists at several places on the coast of Texas, and the great difference in distance as compared from our seacoast to that from the far off Atlantic coast to the States mentioned in the said concurrent resolution of the Kansas legislature, making it a forced and unnatural proceeding to carry the immense surplus of agricultural, mineral and manufactured products fifteen hundred miles further to find ships' bottoms, that they may be transmitted to the other countries of the world, thus denying an outlet to large quantities of such products, the cost of transporting being more than their market value; therefore, be it

Resolved, first, by the Senate of the State of Texas, the House of Representatives concurring therein: That we heartily endorse the resolutions of the Kansas legislature in so far as they may lead to the conference mentioned of delegates from the several States, and we would recommend that an invitation be extended to other States west of the Mississippi river to participate in the conference by sending representatives thereto.

Resolved, second: That his excellency, Gov. Culberson, when he is informed of the appointment of delegates from the other States and Territories mentioned to such a conference, to appoint an equal number of our citizens to meet such delegates, who are hereby empowered to present such a report to the next legislature as may enable that body to intelligently deal with the subject of a low rate of freights from all the territory of this vast western region to our seaboard.

Approved, April 15, 1897.

S. J. R. No. 8.]

JOINT RESOLUTION.

To amend Section 3 (three), of Article XI (11), of the Constitution of the State of Texas, so as to authorize certain counties to give aid in the construction of railways.

Section 1. Be it resolved by the Legislature of the State of Texas: That Section 3, of Article XI, of the Constitution of the State of Texas, be amended so that the same shall hereafter read as follows:

Section 3. No county, city or other municipal corporation shall hereafter become a subscriber to the capital of any corporation or association, or make any appropriation or donation to the same, or in any wise loan its credit, except as hereinafter provided.

It shall be lawful for any county in this State lying south of the counties of Jeff Davis, Reeves, Ward, Ector, Midland, Glasscock, Sterling, Coke and Runnels, and south and west of the Colorado river; also, all those counties west of Hardeman, Knox and Haskell, and north of Fisher, Scurry, Borden, Dawson and Gaines; also, the counties of Matagorda and Brazoria, to give aid, by and through its commissioners' court, by the issue of bonds of such county, or other evidences of indebtedness, in the construction of a standard guage railway or railways into, through or across any such county, when, by a vote of the majority of the qualified voters of any such county, voting at an election held for that purpose, such aid authorized.

Provided, however, that no such aid as is hereinbefore authorized and provided for shall ever be given or paid to any railroad company, or in aid of any such railway construction, except in proportion to and for such railway or part thereof as shall have been completely constructed and equipped within any such county. And special authority and power is hereby given the commissioners' court of any county within the territory herein prescribed, wherein such aid may be authorized, to levy and collect an annual tax, in addition to any other tax authorized by this Constitution, upon all property in such county subject to taxation, to pay interest on and to create a sinking fund to meet said bonds or other indebtedness created for such purpose; provided, that the aggregate of such tax, in any county, shall never in any one year exceed two per centum upon the assessed valuation of the property in such county.

Full power is hereby given to said commissioners' court of any such county, and it is hereby made its duty, at once, upon the petition thereto of not less than one hundred (100) qualified voters of any such county to at any time order and in all things provide for and regulate such election, and the holding, returns, and determination of the same, and prescribe the form of the ballot to be used.

All bonds or other evidences of indebtedness, issued by any such county under the provisions of this section, shall, before being delivered, negotiated or floated, be approved by the Attorney General of this State, and thereupon the Comptroller of this State shall register the same and endorse the fact of such registry upon said bonds or evidences of indebtedness.

Sec. 2. The Governor is hereby directed to issue the necessary proclamation for submitting this amendment to the qualified voters of Texas on the first Tuesday in August, 1897; at which election all voters favor-

ing the amendment shall have written or printed on their tickets, "For the Amendment to Section 3, of Article XI, of the Constitution of Texas, authorizing all counties in this State lying south of the counties of Jeff Davis, Reeves, Ward, Ector, Midland, Glasscock, Sterling, Coke and Runnels, and south and west of the Colorado river; also, all those counties west of Hardeman, Knox and Haskell, and north of Fisher, Scurry, Borden, Dawson and Gaines; also the counties of Matagorda and Brazoria, to give aid in the construction of railroads by the issuance of bonds or other evidences of indebtedness, when authorized thereto by a majority vote of any such county;" and those opposed to said amendment shall have written or printed on their tickets, "Against the Amendment to Section 3, of Article XI, of the Constitution of Texas, authorizing all counties in this State lying south of the counties of Jeff Davis, Reeves, Ward, Ector, Midland, Glasscock, Sterling, Coke and Runnels, and south and west of the Colorado river; also, all those counties west of Hardeman, Knox and Haskell, and north of Fisher, Scurry, Borden, Dawson and Gaines; also, the counties of Matagorda and Brazoria, to give aid in the construction of railroads, by the issuance of bonds or other evidences of indebtedness, when authorized thereto by a majority vote of any such county."

[Note.—The foregoing joint resolution passed the Senate by a two-thirds vote, yeas 25, nays 2; and having passed the House with amendments, and being referred to a free conference committee, the report of said committee was adopted by both houses, the vote in the Senate being yeas 22, nays none. The certificate of the Chief Clerk of the House does not give the vote on passage of this joint resolution, or on adoption or the free conference report.]

[Note.—The foregoing joint resolution was presented to the Governor of Texas for his approval, on Tuesday, the sixth day of April, A. D. 1897, but was not signed by him nor returned to the house in which it originated, with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

H. J. R. No. 20.]

JOINT RESOLUTION.

To amend Article XI, of the Constitution of the State of Texas, by adding thereto Section 11.

Whereas, the laws of the State of Texas authorize the several counties in this State, through their commissioners' court, to issue bonds for the erection of court houses and jails, and the construction and purchase of bridges; and

Whereas, the statutes of the State of Texas authorize the board of education of said State to invest the permanent school fund thereof in bonds issued for the purposes aforesaid by the said counties; and

Whereas, the board of education of this State, in pursuance of said statutory authority, has purchased as an investment for the permanent school fund of the State of Texas, bonds approximating three million dollars; and

Whereas, the Constitution of the State of Texas provides that no debt for any purpose shall ever be incurred in any manner for any city or county unless provision is made at the time of its creation for the levying and collecting of a sufficient tax to pay the interest thereon, and provide at least two per cent. as a sinking fund; and

Whereas, it is believed that some of the bonds so purchased by the State board of education as an investment for the permanent school fund were not issued in conformity with that provision of the Constitution, and it is doubtful whether proper provision was made at the time of the attempted creation of said debt, evidenced by said bonds, for the levy of a tax to secure the payment of interest and the creation of a sinking fund, and that some of said bonds may therefore be held invalid by the courts;

Therefore, Be it resolved by the Legislature of the State of Texas: That Article XI, of the Constitution of the State of Texas, be amended by adding thereto the following, which shall be denominated "Section 11."

Section 11. That all bonds heretofore issued by the several counties of Texas for the purpose of the erection of court houses and jails, and for the purchase or construction of bridges, and that have been purchased by the proper authorities of the State of Texas as an investment for the permanent school fund of said State, and that at the time of the creation of said debt, evidenced by said bonds, the provision for the levy of a tax for the payment of the interest and the creation of a sinking fund was not made, shall not be for that reason held to be invalid; but said bonds are hereby validated, and are hereby made valid debts against the several counties by which they were issued.

Be it further resolved: That this amendment shall be submitted to a vote of the qualified electors of the State of Texas on the first Tuesday in August, 1897, at which election all voters favoring said proposed amendment shall write or have printed on their ballots the words, "For the amendment of Article XI, of the Constitution, validating bonds held by the State as an investment for the permanent school fund;" and all voters opposing said amendment shall write or have printed on their ballots the words, "Against the amendment to Article XI, of the Constitution, validating bonds held by the State as an investment for the permanent school fund."

And that the governor of the State is hereby directed to issue the necessary proclamation for said election, and have same published as required by the Constitution and existing laws of the State.

Approved, April 22, 1897.

[Note.—The foregoing joint resolution passed the House by a two-thirds vote, yeas 93, nays 2; and passed the Senate by a two-thirds vote, yeas 21, nays none.]

S. C. R. No. 22.] CONCURRENT RESOLUTION.

Granting to the 8th Texas Cavalry Association, known as Terry's Texas Rangers, the right to place in the Capitol grounds a monument to their heroic dead.
Relating to Lease of Temporary Capitol.

Be it resolved by the Senate, the House of Representatives concurring: That the 8th Texas Cavalry Association, known during the Confederate War as Terry's Texas Rangers, be, and they are hereby granted permission to erect, at the expense of said association, a monument in commemoration of their dead comrades, on the Capitol Grounds in the City of Austin, and that the Superintendent of Public Buildings and Grounds be authorized to select a site for said monument.

[Note.—The foregoing concurrent resolution was presented to the Governor of Texas for his approval, on Friday, the sixteenth day of April, A. D. 1897, but was not signed by him nor returned to the House in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

H. C. R. No. 13.] CONCURRENT RESOLUTION.

Relating to Lease of Temporary Capitol.

Whereas, the lease on the Temporary Capitol owned by the State will expire on July 1st, 1897; therefore,

Be it resolved by the House of Representatives, the Senate concurring, that the Superintendent of Public Buildings and Grounds is hereby authorized and empowered to lease the same for a period not to exceed five years, together with any other lot, parts of lots or lands belonging to the State situated in the City of Austin.

Approved, April 30, 1897.

Takes effect 90 days after adjournment.

S. C. R. NO. 16.] CONCURRENT RESOLUTION.

Relating to destruction of property at Brenham, Texas, in the year 1866, by United States Soldiers garrisoning the town.

Whereas, at Brenham, in Washington County, in this State, on the seventh day of September, 1866, more than a year after the war between the States had ended, soldiers of the United States, garrisoning the town, led by the commander of the post, burned and destroyed a block of houses embracing the largest and most valuable buildings and business establishments in the town, together with the contents of the buildings—an act of spoliation for which the United States would have demanded prompt and ample indemnity if it had been committed upon citizens of the United States in any foreign country by the soldiers of that country,

and for which the United States Government would have made prompt and ample indemnity to the persons injured, if it had been committed in this country by our soldiers, upon citizens of any foreign government; and

Whereas, immediately after the act was committed, while the facts could be readily and fully ascertained, the Legislature of this State, then in session, caused an investigation to be made by a committee of the two houses, which committee reported to the Legislature the persons injured, and value of property destroyed to be:

Francis D. Allen.....	\$5,000 00
Allen & Newman.....	3,500 00
C. R. Breedlove, Agt. for V. Little.....	1,500 00
McGary & Roff (D. L. McGary and N. B. Roff).....	5,000 00
Sam Levinson	27,800 00
D. L. McGary.....	500 00
J. B. Campbell.....	700 00
Compton Bros.	25,000 00
Norris & McNeese.....	35,000 00
Pressler & Roff.....	2,500 00
C. & J. Stephenson.....	1,000 00
H. C. Surghnor.....	600 00
Wilkins & Stephenson.....	15,141 00
John B. Wilkins.....	9,000 00
Wyatt & McCrocklin.....	1,500 00

Therefore, by the Senate and House of Representatives of the State of Texas, be it resolved, That the Texas Senators and Representatives in Congress be and are hereby requested to use their best endeavors to secure from the United States Government, by act of Congress, indemnity and payment to the citizens of Brenham, or their legal representatives, for the property destroyed.

Resolved, that the Secretary of State is hereby instructed to forward to each Texas Senator and Representative in Congress a certified copy of this resolution.

[Note.—The foregoing concurrent resolution was presented to the Governor of Texas for his approval, on Friday, the sixteenth day of April, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

Takes effect 90 days after adjournment.

S. J. R. No. 19.]

JOINT RESOLUTION.

Permitting the Hon. T. H. Conner, Judge of the 42nd Judicial District of Texas, to leave the limits of the State for a period of sixty days, on account of important business.

Section 1. Be it resolved by the Legislature of the State of Texas: That whereas, the Hon. T. H. Connor, judge of the 42nd judicial district of Texas, has important business outside of the State of Texas demanding his personal attention; therefore,

Sec. 2. The said T. H. Connor, judge as aforesaid, be and is hereby permitted to go beyond the limits of the State of Texas for a period of sixty days from and after the passage of this joint resolution.

Sec. 3. The nature of the business of the said judge being of a pressing and urgent character, and the crowded condition of the calendar of both the Senate and the House, and the early adjournment of the legislature, create an emergency, and an imperative public necessity exists requiring that the constitutional rule requiring bills to be read on three several days be suspended, and that this resolution take effect from and after its passage, and it is so enacted.

Approved, May 12, 1897.

[Note.—The foregoing joint resolution passed the Senate by a two-thirds vote, yeas 28, nays none; and passed the House, vote not given.]

H. C. R. No. 30.] CONCURRENT RESOLUTION.

Granting Hon. J. M. Hall, Judge of the 18th Judicial District, sixty days leave of absence from the State.

Whereas, the Hon. J. M. Hall, District Judge of the 18th Judicial District, is at this time in very bad health, and desires to leave the State on or about the first day of June, 1897, for the purpose of regaining his health;

Therefore, be it resolved by the House of Representatives, the Senate concurring,, that said Hon. J. M. Hall, District Judge of the 18th Judicial District, be and is hereby allowed to leave the State for a period of sixty days, from the first day of June, 1897, until the first day of August, 1897.

Approved, May 19, 1897.

S. J. R. No. 16.] JOINT RESOLUTION.

Granting leave of absence from the State to Judge Eugene Archer.

Section 1. Be it resolved by the Legislature of the State of Texas: That Judge Eugene Archer, judge of the 38th judicial district of Texas, be and is hereby granted leave of absence from the State for a period of sixty days, at any time between the 25th day of April and the 1st day of December, 1897, on account of serious illness.

Resolved, further, that the fact Judge Eugene Archer is in ill health and badly needs a change of climate, and the fact that the health of one of the State's district judges is imperiled, creates an emergency and an imperative public necessity requiring the suspension of the constitutional rule that bills be read on three several days be suspended, and that this resolution take effect and be in force from and after its passage, and it is so enacted.

Approved, May 21, 1897.

[Note.—The foregoing joint resolution passed the Senate by a two-thirds vote, yeas 21, nays none; and passed the House, vote not given.]

S. J. R. No. 20.] JOINT RESOLUTION.

Granting leave of absence for sixty days from the State of Texas, to Hon. W. M. Allison, Judge of the Thirty-Third District of Texas.

Whereas, Hon. W. M. Allison, Judge of the Thirty-third Judicial District of Texas, on account of ill health, desires a leave of absence for sixty days from the State of Texas; therefore,

Section 1. Be it resolved by the Legislature of the State of Texas: That said W. M. Allison be and he is hereby granted a leave of absence from the State of Texas for the period of sixty days.

Sec. 2. The near approach of the close of the session, and the crowded condition of the calendar, create an emergency, and an imperative public necessity exists that the constitutional rule requiring bills and resolutions to be read on three several days be and the same is hereby suspended, and that this resolution be in effect from and after its passage, and it is so enacted.

Approved, May 22, 1897.

[Note.—The foregoing joint resolution passed the Senate by a two-thirds vote, yeas 23, nays none; and passed the House, vote not given.]

H. C. R. No. 34.] CONCURRENT RESOLUTION.

Authorizing and directing the State Printing Board to contract for a reprint of such appellate court reports as are now out of print, and also such as may hereafter become out of print, or nearly so; and providing certain conditions and limitations in relation to such contract, and the manner of letting the same.

Whereas, many of the volumes of the Supreme Court reports of the State of Texas are now out of print, and the State's supply therefor has been exhausted; and

Whereas, many other volumes of said reports are now nearly exhausted, and doubtless will be entirely so at no very distant time; and

Whereas, other volumes of which a sufficient supply is now on hand are likely to become insufficient to supply the demand therefor; and

Whereas, the State owns and has on hand the stereotyped plates for many of said volumes; and will have others; and

Whereas, the State Printing Board is without authority to contract for a reprint of said reports; therefore,

Be it resolved by the House of Representatives, the Senate concurring, that the State Printing Board be and the same is hereby authorized, empowered and directed to make such contract or contracts as may be necessary to secure a reprint of such of said reports as are now exhausted, or nearly so, and such as may hereafter become exhausted, or nearly so; provided, that the reprinting of said reports shall be done without cost to the State; and provided, further, that such contract or contracts shall stipulate that the State and the publisher or publishers of said reports shall sell the same at the same price, such price not to exceed the sum of two dollars (\$2.00) per volume, and such volume to be printed and bound in style equally as good as the current numbers of said reports; and provided, further, that this resolution shall also apply to the Courts of Civil Appeals reports and the Court of Criminal Appeals reports, should said Board find a reprint thereof advisable and necessary; and provided, further, that such contract shall be let to the best bidder after such publication for bids therefor as the said Board may think proper, and shall require that said reports be printed within this State.

Approved, May 22, 1897.

S. J. R. No. 13.] JOINT RESOLUTION.

To amend Section 24, of Article 3, of the Constitution of the State of Texas.

Section 1. Be it resolved by the Legislature of the State of Texas: That Section 24, of Article 3, of the Constitution of the State of Texas, be so amended as hereafter to read as follows:

Section 24. The members of the Legislature shall receive from the public treasury such compensation for their services as may from time to time be provided by law, not exceeding five dollars per day for the first one hundred days of each session, and after that, not exceeding three dollars per day for the remainder of the session. In addition to the per

diem, the members of each house shall be entitled to mileage in going to and returning from the seat of government, which mileage shall not exceed five dollars for every twenty-five miles, the distance to be computed by the nearest and most direct route of travel by land, regardless of railways or other routes; and the Comptroller of the State shall prepare and preserve a table of distances to each county seat now or hereafter to be established, and by such table the mileage of each member shall be paid; but no member shall be entitled to mileage for any extra session they may be called within one day after the adjournment of a regular or called session.

Sec. 2. The governor is hereby directed to issue the necessary proclamation for submitting this amendment to the qualified voters of Texas, at the next general election, at which election all voters favoring the amendment shall have written or printed on their tickets, "For amendment to Section 24, of Article 3, of the Constitution of Texas, relating to compensation of members of the legislature," and those opposed to said amendment shall have written or printed on their tickets, "Against amendment to Section 24, of Article 3, of the Constitution of the State of Texas, relating to the compensation of members of the legislature."

[Note.—The foregoing joint resolution passed the Senate by a two-thirds vote, yeas 21, nays 1; and passed the House with amendments by a two-thirds vote, yeas 89, nays 7; and being referred to a free conference committee, the report of said committee was adopted by a two-thirds vote in both houses, the vote being, in the Senate, yeas 24, nays 4, in the House, yeas 90, nays 16.]

[Note.—The foregoing joint resolution was presented to the Governor of Texas for his approval, on Thursday, the twentieth day of May, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

H. J. R. No. 34.] JOINT RESOLUTION.

To amend Section 51, of Article 3, of the Constitution of the State of Texas, so as to authorize the grant of aid to disabled and dependent Confederate soldiers and sailors, and their widows, and to grant aid to the establishment and maintenance of a home for said soldiers and sailors.

Section 1. Be it resolved by the Legislature of the State of Texas: That Section 51, of Article 3, of the Constitution of the State of Texas, be so amended as to hereafter read as follows:

ARTICLE 3.

Section 51. The legislature shall have no power to make any grant or authorize the making of any grant of public money to any individual, associations or individuals, municipal or other corporations whatsoever; provided, however, the legislature may grant aid to indigent and dis-

abled Confederate soldiers and sailors who came to Texas prior to January 1st, 1880, and who are either over sixty years of age, or whose disability is the proximate result of actual service in the Confederate army for a period of at least three months, their widows in indigent circumstances who have never re-married, and who have been bona fide residents of the State of Texas since March 1, 1880, and who were married to such soldiers or sailors anterior to March 1, 1866; provided, said aid shall not exceed eight dollars per month; and provided, further, that no appropriation shall ever be made for the purpose hereinbefore specified in excess of two hundred and fifty thousand dollars for any one year. And also grant aid to the establishment and maintenance of a home for said soldiers and sailors, under such regulations and limitations as may be provided by law; provided, the grant to aid said home shall not exceed one hundred thousand dollars for any one year; and no inmate of said home shall be entitled to any other aid from the State; and provided, further, that the provisions of this section shall not be construed to prevent the grant of aid in case of public calamity.

Sec. 2. This amendment shall be submitted to the qualified electors of the State on the first Tuesday in November, 1898; when those favoring the amendment shall have written or printed on their ballots, "For the amendment to Section 51, of Article 3, of the State Constitution." Those opposing the amendment shall have written or printed upon their ballots, "Against the amendment to Section 51, of Article 3, of the State Constitution."

[Note.—The foregoing joint resolution passed the House by a two-thirds vote, yeas 96, nays 9; and passed the Senate by a two-thirds vote, yeas 22, nays 6.]

[Note.—The foregoing joint resolution was presented to the Governor of Texas for his approval, on Friday, the twenty-first day of May, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

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SPECIAL LAWS

OF

THE STATE OF TEXAS

PASSED AT THE

REGULAR SESSION OF THE TWENTY-FIFTH LEGISLATURE

CONVENED

AT THE CITY OF AUSTIN

JANUARY 12, 1897, AND ADJOURNED MAY 21, 1897.



AUSTIN
1897

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SPECIAL LAWS OF TEXAS.

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H. B. No. 272.]

CHAPTER 1.

An Act to amend an act entitled "An Act to incorporate the city of Austin, to grant it a new charter, and to extend its boundaries," passed by the Twenty-second Legislature, in April, 1891, and presented to the Governor on the 3d day of April, 1891, by adding thereto sections 99a, to 99n, inclusive, said sections providing for the creation of a board to be known as "The Water, Light and Power Commission of the City of Austin," for the election of said Commission by the people of the city of Austin, defining the powers and duties of said Board, including the right of eminent domain, and providing for the protection of the water and other property and apparatus of the water, light and power system of said city of Austin, and prescribing penalties to better secure such protection, and repealing all laws and parts of laws in conflict with the provisions of this amendment.

Section 1. Be it enacted by the Legislature of the State of Texas: That the act entitled "An act to incorporate the city of Austin, to grant it a new charter, and to extend its boundaries," passed by the Twenty-second Legislature in April, 1891, and presented to the Governor on April 3d, 1891, be and the same is hereby amended by adding thereto the following provisions:

Section 99a. That there shall be a board designated and known as "The Water, Light, and Power Commission of the City of Austin," composed of four commissioners, possessing the qualifications required for mayor of said city, and of the mayor of the city of Austin, who shall ex-officio be a member thereof; said commissioners to be elected by the qualified voters of said city, and to serve without compensation.

Section 99b. That an election shall be held in the city of Austin on the first Monday after the expiration of twenty days from the time this law goes into effect, for the purpose of electing said commissioners, which election shall be held and the result thereof declared as provided by law and the ordinances of said city for all general elections therein; and within twenty days after the result of said election has been declared, the persons so elected to said board shall qualify by taking and subscribing the oath prescribed by the constitution; two of the members so elected shall hold their office until the qualification of their successors, to be elected at the general city election to be held in the city of Austin on the first Monday in December, 1897, and the other two shall hold their office until the qualification of their successors, to be elected at the general city election to be held on the first Monday in December, 1898; the long and the short terms to be drawn for by the said commissioners by lot at the first meeting of the board after the members have qualified. At each annual

general city election on the first Monday in December thereafter, two commissioners shall be elected to serve for the period of two years, and until the qualification of their successors.

Section 99c. That any vacancy occurring in said commission by death, resignation, removal from office, or otherwise, shall be filled by a vote of two-thirds of the city council; the appointee to hold office until a successor is elected at the next general city election in said city, for the unexpired term or a full term, as the case may be. Any member of said commission may be removed from office by a vote of two-thirds of the city council, for neglect, inefficiency, or malfeasance in office, as provided in case of other officers of said city.

Section 99d. That after said commissioners have qualified, as provided in section 99b, the board and their successors shall take and hold possession of, and have, and exercise, general exclusive supervision, management and control of the system of water-works, electric light, and power plant of the city of Austin, and all property, funds and business belonging or appertaining thereto; and it shall have the exclusive power and it is charged with the duty as a branch of the city government, to furnish all water, light, and power, adequate to the requirements of the city of Austin, for public use, and for such compensation to be paid by the city as hereinafter provided; and said board shall have the power to make, and enforce, any and all contracts deemed proper by it, and not prohibited by law or this act, in connection with its duties and powers hereby given it; said board shall further have the power and is hereby given the right to use the sand banks of the Colorado river within the limits of the city of Austin, for the purpose of constructing and maintaining wells, canals, and such other improvements, as may be deemed needful by the board, for properly carrying on its business in pursuance of its powers as such board; and the said city of Austin is hereby invested with the right of eminent domain, to be exercised by said board for the city of Austin, in the acquisition of any property necessary for the maintenance of said system, and shall have the power to improve, extend, add to or change said system under its control as the board may from time to time determine, and to dispose of all property not needed for the proper management of the plant and system.

Section 99e. The said commission shall have power to employ and discharge, at pleasure, the persons necessary to successfully operate said water, light and power system, and to fix the salaries and amounts of compensation each employe shall receive, with power to reduce or change such compensation at its pleasure; and when deemed necessary by it, to require of employes such bonds as may be deemed proper.

Section 99f. That said commission shall have the power, and it shall be its duty, to make and enforce all rules and regulations necessary for the protection of said property and the operation of said business, and to fix all rates and charges for water, light and power to be paid by all consumers; provided, that the charges to be paid by the city for water, light, and power, for public use, shall be as follows:

For each fire hydrant, not more than thirty dollars per year.

For each watering trough, not more than forty dollars per year.

For flushing gutters and supply of public grounds and property with water, not more than one thousand dollars per year.

For water used by the city for all other purposes, and for light and power, a rate not to exceed one-half of the meter rates fixed from time to time for other consumers generally.

And provided, that the rates charged by said commission shall at no time be so high that the proceeds exceed in amount a sufficiency to pay interest and sinking fund on the water and light bonds of the City of Austin, operating expenses and general improvements deemed proper for the benefit of the system; and the commission shall have power and it is its duty to provide the method and fix the time when payments of rates and charges shall be made, and to receive and collect all money due from said system; and it may, in its own name, institute and conduct any suit in the courts having jurisdiction thereof, for the collection of debts due it, for the recovery or protection of said property, or for damages thereto; that said commission shall keep a record of its proceedings and a list of rates, both of which shall be subject to inspection at all times during office hours; and it shall make report to the city council quarterly, showing the revenue and expenditures had, made, and contracted for during the next preceding three months, and at the end of each fiscal year, a report, showing additionally the condition of the system, the property, funds, and securities which have come into its hands during said year, and the disposition thereof; which report shall be audited under direction of the city council, and shall be made a record in the minutes of said council, and shall be published in such manner as the council may direct.

Section 99g. The commission shall, at its first meeting, and thereafter at the first meeting after each annual election and qualification of members of the board, elect one of its members president, and another vice president, who shall, unless they sooner vacate same, hold their offices until the first meeting of the board after the next election and qualification of members of said board; and in case of vacancy in either position, the board shall select from its number a member to fill such vacancy for the unexpired term. Any three members of said board shall constitute a quorum for the transaction of business in regular meeting, and at least one regular meeting shall be held each month; the board shall keep on file vouchers for all expenditures, and may prescribe such further rules for the conduct of its business as from time to time it may deem proper; provided, that no money shall be paid out except after appropriation made therefor at a regular meeting of said commission, and provided, that the treasurer shall only pay out money upon the draft against such appropriation of the president, or vice president, if under the rules of the commission he is acting for the president, and one other member of the commission; and provided further, that the revenue arising from the said water, light, and power plant, shall be applied by said commission, first, to the payment of the current expenses of said business, and second, to all reasonable improvements and additions to said system, and third, the surplus shall be transferred by the commission to the interest and sinking fund of the water and light bonds of the city of Austin, such transfer to be made at least ten days prior to the time at which any installment of interest or sinking fund shall become due and payable upon the water and light bonds of said city, towards the payment of which such surplus fund shall be applied; and it shall be the duty of said commission, at least thirty days prior to the annual levy of

taxes by said city, to report to the city council an estimate of such surplus for the year for which taxes are to be levied.

Section 99h. The treasurer of the city of Austin is hereby made the ex officio treasurer of the water, light and power commission of the city of Austin, and as such treasurer of said commission, he shall give bond, payable to the city of Austin, and subject to the approval of the commission, in a sum to be fixed by the said commission, and not less than twenty-five thousand dollars, conditioned for the faithful performance of all duties devolving upon him as such treasurer of said commission; any guaranty company having complied with the provisions of the laws of Texas in that respect may become surety upon such bond.

Section 99i. The said commission shall have a seal with its name inscribed thereon, which shall be kept by the person designated by the commission as secretary, and copies of all records and official books and accounts of the said commission, certified under the hand of its president and attested by its secretary and seal, shall be admitted in evidence in all the courts.

Section 99j. The commission may lease any surplus power for such periods of time, not exceeding twenty years, and for such prices as it may deem expedient, subject always to the right of the city to the use of sufficient water to properly operate the plant; provided, that all contracts for the lease of such power or any part thereof shall contain stipulations fixing the time within which such power shall be used and for what purpose, and that the right to use the same shall be forfeited upon the failure to use the same within the time stipulated in such contract for the purpose therein specified, or for the abandonment of the usage of the same for a period to be specified in such contract, or for subleasing or assigning the same or parts thereof, or charging others for the use thereof without the written consent of said commission, or for failure to pay for the same at such time as may be fixed for the payment in such contracts, and the contracts shall provide that the commission may discontinue the supply of power to such lessees whenever, in its discretion, it may be necessary so to do, in order that said system may be properly operated, and such lessees shall not have a right of action against the city of Austin for any damages arising out of such discontinuance, but shall be entitled to a proportionate rebate on their contract price of such power.

Section 99k. That it shall be unlawful for any commissioner to be interested either directly or indirectly in any contract or transaction by said commission with any person or persons, or in the purchase of any material or supplies made by said commission.

Section 99l. If any person shall willfully do or cause to be done any act whereby any work, material or property whatever, erected within or without the city of Austin, or used by the board or by any person acting under its authority for the purpose of securing or keeping a supply of water, light, or power, shall be injured, or shall willfully throw or place, or cause to be thrown or placed, any carcass of any dead animal or person, or any other deleterious or filthy substance whatever in any reservoir, pipe or aqueduct of said system through which water for public or private use is conveyed, or shall throw or place, or cause to be thrown or placed in the Colorado river or any of its branches any such substance above the city dam across the Colorado river within the city limits, or

willfully do or cause to be done any act to pollute said water, he shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than ten dollars and not exceeding two hundred dollars.

Section 99m. That if any person without the written consent of the commission, or of its agent duly thereunto authorized, shall perforate, bore, or cause to be perforated or bored, any distributing pipe, main or aqueduct, or cut, remove or otherwise injure any wire or pole or attachment to either, or shall willfully injure any reservoir or other appliances or machinery used as a part of or in connection with said water, light, and power plant or system, or make or cause to be made any connections with the said pipe, aqueduct or works or appliances without such written authority previously obtained, the person so offending shall be guilty of a misdemeanor, and shall, upon conviction thereof, be punished by a fine of not less than ten dollars nor more than two hundred dollars.

Section 99n. No prosecution herein provided for shall preclude the commission from recovering damages in any civil action.

Sec. 2. That all laws and parts of laws which are in conflict with this act, be, and the same are hereby repealed.

Sec. 3. The fact that the proper management of the water, light, and power system of the city of Austin requires the immediate passage of a law providing therefor, creates an imperative public necessity and an emergency which necessitates the suspension of the constitutional rule requiring bills to be read on three several days, which said rule is accordingly suspended, and said emergency requiring that this act take effect and be in force from and after its passage, it is so enacted that it be in force from and after its passage.

[Note.—The foregoing act passed the House by a two-thirds vote, yeas 90, nays none; and passed the Senate by a two-thirds vote, yeas 26, nays none.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Saturday, the thirteenth day of February, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto, within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

H. B. No. 242.]

CHAPTER 2.

An Act to amend the charter of the City of Galveston, by adding thereto Section 73c, in order to empower the said City of Galveston to grant rights of way to railroads and depot companies for tracks on Strand Street or Avenue B on any portion thereof west of 25th Street, and to confirm certain rights heretofore granted by the City Council of the City of Galveston to the Gulf, Colorado & Santa Fe Railway Company to erect and maintain tracks on portions of the said street and to occupy a portion of Twenty-sixth (26) Street for depot purposes.

Section 1. Be it enacted by the Legislature of the State of Texas: That the Charter of the City of Galveston be and the same is hereby amended by adding thereto Section 73c, as follows, to-wit:

Section 73c. The city council shall have power to grant rights of way to railroads or depot companies for tracks on Strand street or Avenue B, on any part thereof west of Bath avenue or Twenty-fifth street.

The action of the city council of the said city in granting certain rights to the Gulf, Colorado & Santa Fe Railway company on Strand street or Avenue B, and the right to close and occupy, for depot purposes, a certain portion of Twenty-sixth street, which said rights were granted by the city council of the said city to said company by an ordinance passed January 30, 1896, entitled:

"An ordinance repealing section 4 of the ordinance passed August 17, 1885, entitled 'Grant to the Gulf, Colorado & Santa Fe Railway company,' the same being printed as chapter 45, revised ordinances, published by the city in 1893, and repealing section 3 of the ordinance of February 7, 1891, entitled 'Grant to the Gulf, Colorado & Santa Fe Railway company,' the same being printed as chapter 48 of the revised ordinances published by the city in 1893, and granting to the Gulf, Colorado & Santa Fe Railway company the right to extend two side-tracks from its present track on Strand street, between Twenty-seventh street to Block 686, and granting to the said railway company the exclusive use of a part of Twenty-sixth street," and which said ordinance was amended by an ordinance passed February 17, 1896, entitled:

"An ordinance amending section 6 of the ordinance passed January 30, 1896, entitled 'An ordinance repealing section 4 of the ordinance passed August 17, 1885, entitled 'Grant to the Gulf, Colorado & Santa Fe Railway Company,' the same being printed as chapter 45, revised ordinances, published by the city in 1893; and repealing section 3 of the ordinance of February 7, 1891, entitled, 'Grant to the Gulf, Colorado & Santa Fe Railway Company,' the same being printed as chapter 48 of the revised ordinances published by the city in 1893, and granting to the Gulf, Colorado & Santa Fe Railway Company the right to extend two side-tracks from its present track on Strand street across Twenty-seventh street to block 686, and granting exclusive use of a part of Twenty-sixth street," is hereby validated, sanctioned and confirmed to the same extent as though the same had been theretofore expressly authorized by the legislature of the State of Texas, and the rights of the said railway company thereunder are hereby sanctioned, validated and confirmed to the full extent as provided in said ordinances. And the said city council are empowered, if it shall deem the same proper, to extend the time in which said railway company or its assigns is required by said ordinances to construct or complete the union depot referred to in said ordinances.

Sec. 2. The fact that it is necessary to authorize the city council to grant the right to construct additional tracks on Strand street to properly utilize the union depot about to be built in the city of Galveston, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days should be suspended, and are so suspended, and this act shall take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act passed the House by a two-thirds vote, yeas 100, nays 7; and passed the Senate by a two-thirds vote, yeas 25, nays none.]

[Note.—The foregoing act was presented to the Governor of Texas

for his approval, on Tuesday, the second day of March, A. D. 1897, but was not signed by him nor returned to the House in which it originated with his objections thereto, within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

H. B. No. 254.]

CHAPTER 3.

An Act to amend Sections 4 and 18 and 19, of an act entitled "An act to incorporate the city of Waco, and to define its boundaries."

Section 1. Be it enacted by the Legislature of the State of Texas: That Sections 4 and 18 and 19 of the above entitled act be, and the same are hereby amended so as to read as follows:

Sec. 4. The municipal government of the city shall consist of a city council composed of the mayor and two aldermen from each ward, a majority of whom shall constitute a quorum for the transaction of business, except at call meetings for the imposition of taxes, when two-thirds of a full board shall be required unless herein otherwise specified. The other officers of the corporation shall be an assessor and collector of taxes, a secretary, a city attorney, a marshal, a city engineer, and such other officers and agents as the city council may from time to time direct; provided, that the offices of assessor and collector, city attorney, and city engineer may be dispensed with by an ordinance of the city council, and the powers and duties herein prescribed for such officers may be conferred by said council upon other officers; and provided further, the custodian of the funds of the city shall be any person selected by vote of the majority of the city council to act in such capacity, and to be known as "City Treasurer." Such treasurer shall act by virtue of his appointment for a term of two years, and until a successor is appointed, unless removed by vote of two-thirds of the city council, for reasons deemed by said city council to be good and sufficient, which reasons shall be spread at length upon the minutes of said city council. Said city treasurer shall be required to take an oath of office, and it shall be the duty of the city council to award the custody of the funds of the city to the highest and best bidder for such privilege, they being the judges of what is highest and best.

The above named officers (except the city treasurer, who shall not be considered within the meaning of this act an officer), shall be elected by the qualified electors of said city as hereinafter provided, and shall hold their offices for two years and until the election and qualification of their successors; provided, also, that at the first election for aldermen in any new ward defined by the city council, there shall be two aldermen elected; the one receiving the highest number of votes shall hold for two years, and the one receiving the next highest number of votes shall hold for one year, and thereafter one alderman shall be elected at each annual election for two years, as in the wards now existing in said city, and at each annual election hereafter there shall be elected one alderman from each ward in said city as at present, who shall hold for two years.

Sec. 18. The city treasurer shall give bond in favor of the city with

sufficient security to be approved by the city council, in any amount required by the city council, such bond in any event to be not less than seventy-five thousand (\$75,000) dollars, and to be conditioned for the faithful discharge of the duties of city treasurer.

The city treasurer shall receive and securely keep all moneys belonging to the city, and shall make all payments for the same, upon the order of the mayor attested by the secretary under the seal of the corporation; provided, that no order shall be paid unless the said order shall show upon its face that the city council has directed its issuance and show for what purpose it was issued.

The said city treasurer shall render to the city council a full and correct statement of the receipts and disbursements of the money of said city, showing the status of each fund, at the first regular meeting of the city council for each quarter, and whensoever at other times the said city council may require such statement. At the end of every half year the city treasurer shall cause to be published at the expense of the city a statement showing the amount of receipts and expenditures for the six months next preceding, and the general condition of the city finances. The city treasurer shall also do and perform such other acts and duties as the city council may require, and shall receive no compensation.

Sec. 19. The assessor and collector shall make up the assessment of all property taxed by the city, and make duplicate rolls thereof, and on completion of the rolls shall deliver one of them to the city secretary. He shall collect all taxes due the city, and in the event of non-payment of any taxes, shall proceed to sell property to raise the amount of taxes so due, and shall in the performance of his duties observe the provisions of this act and the ordinances of the city relating thereto. He shall give bond in such amount and in such form as the city council may prescribe, with good and sufficient sureties, and the city council may require a new bond whenever in their opinion the existing bond is insufficient, and whenever such bond is required he shall perform no official act until said bond shall be given and approved. He shall, at the expiration of every week, pay to the city treasurer all money by him collected, and shall report to the city council at the first meeting in every month all money so collected and paid; and he shall perform all such other duties and in such manner and according to such rules and regulations as the city council may prescribe. The assessor and collector is authorized to require the owners of all property subject to taxation to render a correct account of the same under oath, to be administered by him. The assessor and collector shall receive such fees and commissions for his services as may be allowed by the ordinances of the city. ,

Sec. 2. The fact that under the present charter and laws of the city of Waco a city treasurer is required to be elected in April, 1897, and the purposes of this act being to abolish such election by the people, of said city treasurer, and to prevent such election, and to empower the city council to appoint such treasurer, creates the case of imperative public necessity which authorizes and requires the suspension of the constitutional rule requiring bills to be read on three several days, and said rule is hereby suspended; and the same facts create an emergency that this act take effect from and after its passage, and it is so enacted.

[Note.—The foregoing act passed the House, vote not given; and passed the Senate by a two-thirds vote, yeas 25, nays none.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Wednesday, the third day of March, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto, within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

S. B. No. 151.]

CHAPTER 4.

An Act to amend the charter of the city of Sherman, passed by the Twenty-fourth Legislature, by amending Section 2 thereof, in regard to the boundary of said city.

Section 1. Be it enacted by the Legislature of the State of Texas: That section 2 of the charter of the city of Sherman be and the same is hereby amended so as hereafter to read as follows, to-wit:

Section 2. That the city limits of the city of Sherman shall hereafter be as follows: Beginning at a point 1760 yards due south of the center of the court house square; thence due east 2060 yards; thence due north 3520 yards; thence due west 3850 yards; thence due south 3520 yards; thence due east 1760 yards to place of beginning.

Sec. 2. Be it further enacted, that all laws and parts of laws in conflict with this act are hereby repealed.

Sec. 3. Owing to the crowded condition of the calendar and the improbability of reaching the bill before adjournment of the legislature, creates an emergency and imperative necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this bill be placed on its third reading.

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Friday, the fifth day of March, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto, within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

Takes effect ninety days after adjournment.

S. B. No. 249.]

CHAPTER 5.

An Act to amend Sections 1, 6, 7, 105, 105a, 105b, and 105c, of an act entitled, "An Act to amend Sections 38, 103, 105, 106, and 108, of an act entitled, 'An Act to incorporate the City of Fort Worth, and to grant a charter to said City,'" approved March 20th, 1889, and Sections 6, 7, 29, 34, 88, and 102 of said act, as amended by the Twenty-second Legislature in 1891; and to add thereto Sections 35a, 35b, 101a, 101b, 101c, 101d, 101e, 102a, 103a, 104a, 106a, 106b, and, also, 105a, 105b, 105c, in reference to the board of equalization; and providing for an appeal from said board to the district court, passed by the Legislature of Texas in the year of 1895, and to add to said act the following Sections, to-wit: 105d, 105e, 105f, 105g, 105h, 105n, 105o, and 105p, and repeal all laws and parts of laws in conflict with this act.

Section 1. Be it enacted by the Legislature of the State of Texas: That Sections 6, 7, 105, 105a, 105b, and 105c, of said act, be amended so as to read as follows:

Section 6.

Officers, How Chosen. The mayor, one alderman from each ward of said city, and city assessor and collector of taxes, city marshal, city treasurer, shall constitute the only elective officers of said city. The aldermen shall be elected (one), by the qualified voters of each respective ward; the city assessor and collector of taxes, and city marshal and city treasurer shall be elected by the qualified voters of the city of Fort Worth, as hereinafter provided, and shall hold their respective offices for two years, and until the election and qualification of their successors. And it is hereby provided that there shall be no election for aldermen at the April election in 1897.

Section 7.

The city council shall, at its first regular meeting in April after the election in the year of 1897, and every two year thereafter, elect a city secretary, a city judge, a city engineer, a street commissioner, a city attorney, a chief of the fire department, and a superintendent of water works, and a secretary of the water works, and auditor, and a city health officer and physician, all of whom shall hold their respective offices for two years, and until their successors are elected and qualified. Should said city council fail to elect all, or any of said officers, at the first regular meeting, as herein provided, then it shall do so at the next regular meeting, or as soon thereafter as practicable.

Section 105.

A board of equalization for the city of Fort Worth, to be composed of three freeholders, shall be appointed as follows: One by the county judge of Tarrant county, one by the judge of the district court of Tarrant county that meets just after the first week in January, and one by the city council, all of whom shall be appointed in January, or as vacancies may occur, and who shall hold their offices for two years, except the first board under this act, which shall be appointed as soon as this act

goes into effect, and not later than the first day of August, 1897, and shall hold their offices until their successors shall qualify.

Section 105a.

The duties and powers of the board of equalization shall be the same as is prescribed in the general laws for boards of equalization for cities and towns, except that said board shall not act in any instance, unless appealed to by tax payer who complains of over valuation or by the city complaining of on under valuation, and in such case the board of equalization shall set a time to hear the evidence, and shall determine the matter according to the law and the evidence, and in no case shall property be assessed higher than it would ordinarily sell for, in cash, and the assessed valuation of the State and county for such year, shall be prima facie evidence of the value of such property; that the said general laws shall, in all other respects, govern said board, except in the manner of their appointment, and excepting, also, the right of the tax payer or the city to appeal from the action of said board, to the District Court, as provided in the city charter.

Section 105b.

The said board of equalization shall, also, have power, on application of any person owning real estate or any interest therein, to correct and reduce any prior assessment of such real estate, and certify the same to the assessor and collector of taxes for said city, who shall be governed thereby, in the collection of taxes for said year; and in doing so, the said board shall hear evidence as to the cash market value of such property, for the year named, and shall be governed accordingly, by such evidence and the law.

Section 105c.

The action of the board of equalization shall be final in all cases, unless an appeal is taken therefrom to the District Court of Travis County, Texas, which may be done by any person or the agent or attorney of any person aggrieved by the action of the board, by giving notice in writing to said board, of such appeal, and the grounds thereof, within ten days after final approval of the assessment rolls by said board, and by giving a bond payable to the city, to be approved by the city assessor and collector of taxes, for the sum of fifty dollars, conditioned, that the appellant will pay all costs of such appeal, if the action of the board of equalization should be sustained by the court, or if the valuation of the property of such appellant shall be raised over the amount at which it stands assessed; a copy of such bond and such notice of appeal, and a description made by the assessor and collector of taxes of the property of the appellant involved therein, shall be filed in said District Court by the assessor and collector, on the application of the party aggrieved, and the case shall be docketed on the civil docket thereof, in the name of the appellant as plaintiff, against the board of equalization of the city of Fort Worth, and all such appeals shall be presented to the

first term of the District Court after notice of appeal is given, and shall have precedence for trial of all civil cases in said court, and the decision of the District Court in such matters shall be final: Provided, however, that if such appeal has not been finally adjudicated by the 31st day of December, of the current year, it shall be the duty of the appellant to pay all of said taxes assessed by the board of equalization against him, and in case he fails to pay said taxes by said time, said appeal shall be dismissed, and the action of said board of equalization held to be final. But in the event the appellant pays all the taxes assessed against him by the board of equalization on or before December 31st of such current year, then, and in the event the court shall, on final adjudication, place a valuation upon appellant's property lower than the valuation placed by said board of equalization, the amount of taxes paid on the valuation which is found to be in excess of the valuation fixed by the court, shall be refunded to him by warrant drawn by the order of the city council, and said District Court shall compel the issuance of such warrant. The lists of property and the values thereof, as settled by the board of equalization, a copy, or a copy of so much thereof as may be pertinent to the question at issue, may be produced in court to be read in evidence on such trials. The notice of appeal from the action of the board of equalization as to assessments for prior years, shall be given within ten days after the specific action or order of said board, complained of by the party appealing: Provided, that the party appealing from the action of the board of equalization as to the taxes for said prior years, when the appeal has not been determined prior to December 31st, 1897, shall pay his full amount of taxes and costs for said years, or said appeal shall be dismissed, and the action of the board of equalization held to be final.

Sec. 2. That to the said act be added the following sections, to-wit: 105d, 105e, 105f, 105g, 105h, 105i, 105j, 105k, 105l, 105m, 105n, 105o, 105p, 105q.

Section 105d.

That the taxing power of said city is limited to one dollar and fifty cents per one hundred dollars taxable values of property in said city for all purposes for any one year.

Section 105e.

That no bonds shall ever be issued by said city in excess of 5 per cent of the total assessed values of the property in said city, and then only upon the vote of the tax payers of said city, and before any such election shall be held, the same shall be ordered by two-thirds of all the elected city council at a regular meeting held by such council; and after ten days has been allowed for the registration of the qualified voters, tax payers of said city, and the said council shall make provision for such registration and give due notice thereof, and of the time and place for registration, and of the time and place for voting, and shall, in such notices specify the purpose of such election. At such election, none but duly registered tax payers of said city shall be entitled to vote, and a majority of all such registered voters, voting at such elections, shall be necessary to carry such election. The said bonds, when issued, shall not run for a longer period than twenty years, and shall be redeemable

at the option of the city, after five years from the date of issuance, shall bear no greater interest than five per centum per annum, and shall never be sold for less than par value, accrued interest included, and all bond issues authorized as herein provided for, shall provide for the levy and assessment of a sufficient tax to pay the annual interest and create a sinking fund sufficient to pay off bonds at maturity.

Section 105f.

The city of Fort Worth shall not have power to issue or have outstanding the promissory notes of said city for any greater amount than twenty-five thousand dollars, and the promissory note of said city shall not bear a greater rate of interest than eight per centum per annum; Provided, that said city council shall have the right, in case of public calamity threatening or affecting the people of said city, to issue notes in an additional sum of twenty-five thousand dollars, to bear interest not to exceed eight per cent per annum.

Section 105g.

No license shall ever be granted by the city of Fort Worth to any person to sell spirit(u)ous, vinous, or malt liquors at retail in any residence portion of said city, except on the petition of all heads of families who reside within three blocks of where the same is to be sold, and all licenses granted contrary to this section shall be void. And any city official issuing license contrary to the provisions of this section shall be subject to impeachment and removal from office: Provided, that this section shall not apply to Main and Houston streets, from the Court House Square to the Texas and Pacific Railroad Reservation, nor to Jennings Avenue from Ninth Street to the Texas and Pacific Railroad Reservation, and to West Weatherford Street from the Public Square to Royal Avenue.

Section 105h.

The wards of said city shall never exceed in number, nine, and there shall be only one alderman for each ward.

Section 105n.

The annual salary of the officers of said city shall be as follows:
 The Mayor of said city shall receive from and after the next general election, in April, 1897 \$1,500
 The City Judge shall receive 750
 The City Attorney shall receive 1,500
 The City Secretary shall receive 1,600
 The City Treasurer shall receive..... 10
 The City Marshal shall receive 1,500
 The City Engineer shall receive 300
 The Chief of the Fire Department shall receive 1,200
 The Superintendent of Water Works shall receive 1,500
 The City Auditor shall receive 1,200

The City Assessor and Collector of taxes shall receive as compensation, one per cent of the amount collected from real estate, and three and one-half per cent of the amount collected from personal property, and five per cent on the amount collected from occupation, and ten per cent on the amount collected from poll taxes, to be retained in each case out of the money collected.

Section 105o.

The compensation of all other city officers or employes shall be fixed by the city council, but no one not hereinbefore provided for shall receive a greater annual salary than the sum of twelve hundred dollars.

Section 105p.

The city council of said city may, at their will and pleasure, fund any valid and outstanding indebtedness into bonds bearing no greater annual interest than five per centum per annum, reserving always, in said bonds, the right of said city to redeem them, or call them in at any time after five years from date of such bonds, and such bonds shall never be sold for less than their par value, with accrued interest: Provided, that said bonds shall not, together with all other bonds issued by said city, exceed five per cent limitation on the bond issuing powers of said city hereinbefore provided.

Sec. 3. That all laws and parts of laws in conflict with the provisions of this act, be, and the same are hereby repealed.

Sec. 4. That, whereas, the said city of Fort Worth, Texas, is without suitable laws on the subjects herein embraced, and the annual election for officers of said city is now near at hand, therefore, an emergency exists that the constitutional rule requiring bills to be read on three separate days be, and the same is, hereby, suspended, and this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act passed the Senate by a two-thirds vote, yeas 21, nays none; and passed the House by a two-thirds vote, yeas 96, nays none.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Monday, the eight day of March, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto, within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

S. B. No. 197.]

CHAPTER 6.

An Act to incorporate the city of Dallas and grant it a new charter.

Section 1. Be it enacted by the Legislature of the State of Texas: That the inhabitants of the city of Dallas, in Dallas county and State of Texas, shall continue to be and are hereby constituted a body politic and corporate by the name and style of The City of Dallas, and by that name shall have perpetual succession; shall have all the rights, immunities, powers, privileges and franchises now enjoyed by said city, and herein granted, and be subject to all its present liabilities, and may sue and be sued, plead and be impleaded, in all courts of law and equity; may contract and be contracted with, make, take, hold and convey any property whatever, for corporate purposes, either within or without the city limits, and may have a common seal and alter the same at pleasure.

Sec. 2. That the bounds and limits of said city are hereby established and described as follows: Beginning on the east bank of Trinity river at low water mark and midway between Commerce street and Main street; thence southerly with the meanderings of said river to the southeast boundary line of the A. C. McDaniel survey; thence, in a course about north, 45 degrees east, with said southeast boundary line of the A. C. McDaniel survey, to the N. E. line of right of way of the Houston and Texas Central Railway main track, a distance of 4250 feet, more or less; thence, northwesterly, with said right of way line of the Houston and Texas Central Railway main track, a distance of 7190 feet, more or less, to the southeast boundary line of East Dallas; thence, with said southeast boundary line of East Dallas, N. 45 degrees east, 9550 feet, more or less, to Fitzhugh Avenue; thence, along Fitzhugh avenue, north, 45 degrees west, 8300 feet, more or less, to Flora street, south, 45 degrees west, 3150 feet more or less to Haskell avenue; thence, along Haskell avenue N. 45 degrees 5350 feet, more or less, to Preston avenue; thence, southwest, along Preston avenue, 360 feet, more or less, to a point, the northeast boundary line of Bowser and Lemmon's Oak Lawn and North Dallas addition to the city of Dallas; thence with the northeast line of Bowser and Lemmon's Oak Lawn and North Dallas addition to the city of Dallas, to the southeast side of Argyle avenue, a distance of 2040 feet, more or less; thence, with the southeast side of Argyle avenue, about south, 45 degrees west, to the southwest side of Cedar Springs road, a distance of 2750 feet, more or less; thence, with the southwest side of Cedar Springs road, about south 45 east, to the southeast side of Oak Lawn avenue, a distance of 210 feet, more or less; thence, south, 45 degrees west, with the southeast line of Oak Lawn avenue, 2400 feet, more or less to the northwest line of Maple avenue; thence, with said avenue line, N. 45 west, 688.8 feet; thence, south, 45 west, 1507 feet, to the northeast line of the right of way of the Dallas and Wichita Railway; thence, southeast, along the northeast line of right of way of Dallas and Wichita Railway to a point where the prolongation of the southeast line of Oak Lawn avenue intersects the said right of way line; thence, south, 45 west, along the prolongation of Oak Lawn avenue to the southwest line of the right of way of the Dallas and Wichita Railway; thence, northwesterly, along said southwest line of said

right of way, 700 feet more or less; thence, south, 45 west, 1700 feet, more or less, to a stake; thence, south, 45 east, 150 feet, more or less, to the bank of the Trinity river; thence, southeast, along said bank of the Trinity river, to the mouth of Turtle creek; thence, easterly, along Turtle creek, to the southwest line of the right of way of the Dallas and Wichita Railway; thence, southeasterly, with the southwest line of the right of way of the Dallas and Wichita Railway, to the northwest side of Payne street; thence, with the northwest side of Payne street, extended to the original corporation line of the city of Dallas, 770 feet, more or less; thence, with said original corporation line, about south, 76 west to the low water mark of the Trinity river, 1200 feet, more or less; thence, southerly, with the meanderings of said river to the place of beginning.

Sec. 3. That any territory adjoining the present or future boundaries of said city, may, from time to time, in any size or shape desired, be admitted and become a part thereof, on application made or written consent given to the city council by the owner or owners of the land, or, as the case may be, by a majority of the legal voters resident on the land sought to be added. In all such cases, the territory so added shall be described by metes and bounds, in an ordinance accepting, assenting and adding the same to the municipal corporation; and thereafter the inhabitants of said added territory shall in all respects be on an equal footing with the inhabitants of the original municipal territory.

Sec. 4. That the city council may divide the city into a convenient number of wards, not exceeding twelve, and define and establish the boundaries thereof, and may change the same from time to time as may be deemed expedient, having regard for the number of inhabitants, so that each ward shall contain, as nearly as may be, the same number of qualified electors for city elections.

Sec. 5. All qualified electors of the State who shall have resided for six months immediately preceding the election within the limits of said city, shall have the right to vote for mayor and all other elective officers of said city, but in all elections to determine the expenditure of money, or assumption of debt, or levy of special taxes, only those shall be qualified to vote who pay taxes on property in said city, their qualifications to be ascertained by an inspection of the assessment rolls.

Legislative Department.

Sec. 6. The legislative power of the city of Dallas shall be vested in the city council, consisting of the mayor, and one alderman from each ward, all of whom shall be elected by the people, as hereinafter provided; said officers shall perform such duties as are herein required, and as may be prescribed by ordinance. The mayor shall receive an annual salary not to exceed eighteen hundred dollars, and he shall not receive any fees or commission. The aldermen shall receive for their salaries ten dollars per month.

Sec. 7. No person shall be eligible to the office of mayor, or alderman, or president or member of board of education, unless, in addition to other qualifications required by law, he be at the date of his election a qualified voter of the city of Dallas, and shall have resided therein for at

least one year preceding his election, and shall not be in arrears in the payment of any tax or other liability due the city.

Sec. 8. No person shall be eligible for any office, elective or appointive, of the city of Dallas, unless he shall be a qualified voter therein, and no person shall be eligible for the office of mayor, or alderman, of said city, who owns or holds any shares of stock in any corporation having or to have any contract with said city by which it holds any right, franchise, or immunity from said city government, or which is entitled to any compensation out of the city treasury; and no member of the city council, or other city official, shall hold any other office or employment under the city government during the term for which he is elected, unless in the city charter otherwise provided, and no member of the city council or board of education or any officer of the city council shall be directly or indirectly interested in any work, business or contract, the expense, price or consideration of which is paid from the city treasury, or by assessment levied by an ordinance or resolution of the city council; nor be the surety of any person having a contract, work or business with said city for the performance of which security may be required; nor be surety on the official bond of any officer of said city. Contracts in violation of said provision shall be void; and no member of the board of education shall be, at any time during his term of office, directly or indirectly interested in, or in the employ of, any school book publishing company, or school book furniture company.

Sec. 9. The elective officers of the City of Dallas shall be, a mayor, a city assessor, a chief of the police, and a city health officer, a president and six members of the board of education, and one alderman from each ward. The first general election under this charter shall take place on the first Tuesday in April, 1897, at which time there shall be elected by the qualified voters of the city of Dallas, a mayor, a president and six members of the board of education, who shall hold their offices for one year, and until their successors are elected and qualified.

There shall also be elected at the said time by the qualified voters of each ward in said city in which the term of office of alderman theretofore elected from said ward shall expire at said time, one alderman; the aldermen so elected shall hold their offices for one year, and until their successors are elected and qualified.

The second general election held under this charter shall be held on the first Tuesday in April, 1898, and every two years thereafter, at which time there shall be elected by the qualified voters of said city, a mayor, a city assessor, a city health officer, a chief of police, a president and six members of the board of education, who shall hold their offices for one year, and until their successors are elected and qualified. There shall also be elected at the said time by the qualified voters of each ward in said city, one alderman; the aldermen so elected shall hold their offices for two years, and until their successors are elected and qualified.

Sec. 10. Aldermen from wards must be residents of said wards, and voted for only by voters of their wards.

Sec. 11. Said elections shall be held at such places as the city council may direct; and at least fifteen days' notice thereof shall be given by publication in one or more newspapers of said city; provided, that for the first election to be held under this charter on April 6th, 1897, it shall

not be necessary to give more than five days' notice, in the manner above provided.

Sec. 12. Said election shall be ordered by the mayor or the city council. For the purpose of holding such election, and others ordered, the city council shall appoint, biennially, in each ward, some suitable person, who shall be presiding officer at all elections in his ward.

Sec. 13. All such elections shall be held according to the provisions of the law of the State of Texas applicable thereto; the presiding judges thereof shall be qualified voters in the city. The city council shall provide for their compensation, and regulate and define their duties and powers, and they shall have such judges and clerks as are in such cases provided by the laws of the State of Texas, which judges and clerks shall be selected by the presiding judge. In case the officer so appointed presiding judge is unable, fails or refuses to act as such, or the city council shall fail to appoint, or in case no presiding officer appears, to open the polls, the attending qualified voters shall appoint such officers, who shall have the same powers, and perform all the duties of the presiding judge. But, in such cases, such judges shall, in their returns, certify that the presiding officer, acting as such, was duly elected by the electors present.

Sec. 14. The manner of conducting, and voting at such elections under this act, keeping the poll lists, canvassing the votes, and certifying the returns, shall be such as provided by the laws of the State of Texas for similar elections, and as may be provided by the city council by ordinance.

Sec. 15. The managers of elections shall be sworn to well and truly conduct the elections, without partiality or prejudice, and agreeable to law, according to the best of their skill and ability; which oath shall be administered to the judges and clerks by the presiding officer. The presiding officer shall be sworn to discharge the duties of presiding officer of elections to the best of his skill and ability, which oath shall be administered by the mayor, city secretary, or any justice of the peace.

Sec. 16. Whenever it happens in such elections that there is a tie between one or more candidates for the same office, the mayor or city council shall declare such election void as between such candidates, and order a new election for such office, giving at least ten days' notice thereof.

Sec. 17. All vacancies in office shall be filled by the city council, to hold until the next general election, when an election shall be held to fill such vacancy for the remainder of the unexpired term.

Sec. 18. Every person elected or appointed to any office in the city of Dallas shall, before he enters upon his duties, take the official oath prescribed by the State Constitution, and such additional oath as the city council may deem best to secure a faithful performance of duty.

Sec. 19. The appointive officers of said city shall be, a treasurer, a city judge, a collector, a city attorney, a city secretary, a city electrician, city engineer, street superintendent, a superintendent of water works, a secretary of water works, an auditor, a chief of fire department, and such other officers or agents as the city council may direct, all of whom shall be elected by the city council by viva voce vote on roll call, as the present terms of such officers expire, and every two years thereafter; provided, that the regular time for electing such officers by the council, or such of them whose terms have expired, shall be at the first regular meeting in October after such regular annual election. This section shall not be

construed to interfere with the terms of any person now occupying any of said offices. All officers elected by the council shall hold their offices for two years, and until their successors are elected and qualified. They shall give such bonds as the city council may require, and perform such duties as are herein required.

Sec. 20. The compensation of all officers not herein fixed shall be such as may be fixed by the city council. Such compensation shall be fixed by ordinance not less than sixty days before each annual election, and when not so fixed shall be same as in next preceding term; and the pay of no city officer shall be increased or diminished during his term of office, and no city officer shall receive any extra pay during his term of office.

Sec. 21. The term "officer," as used in this chapter, shall apply only to those officers who are elected by the people or the council for a fixed and definite period, and the same does not include policemen and other agents or employees of said city.

Sec. 22. Any officer moving out of the city limits, or the ward from which he may have been elected alderman, or ceasing to possess any of the qualifications required of him, shall thereby vacate his office, and the same shall be filled as herein provided.

Sec. 23. The mayor shall be elected and shall hold his office as hereinbefore provided. He shall be the chief executive officer of the city. He shall have power to appoint special policemen for any special occasion, and shall have power to call out the militia and military for the suppression of any riot or public disturbance. He shall be active in enforcing the laws and ordinances of said city; he shall from time to time give the council information about the condition of affairs, and recommend for consideration such measures as he deems best for said city. He shall have, by the advice and consent of the council, power to appoint experts to examine the affairs of any department of said city when he deems it necessary. In all cases of examination of any charges against any officer or employee of the city, election contest, etc., he shall have power to administer oaths, subpoena and compel the attendance of witnesses, and the production of books and papers. He shall have power to administer official oaths. He shall sign all contracts or obligations of the city, and no contract shall be binding upon the city until signed by the mayor. He shall have power to veto any resolution, by-law, motion or order passed by the city council, by filing his written objection thereto within three days after the passage thereof, Sundays and the day of passage of to be excluded. At the next regular meeting, or as soon thereafter as practicable, the council shall consider such objections, and unless the council pass the measure over his veto by a two-thirds vote of the aldermen present, taken by yeas and nays, such measure shall be of no effect. The mayor shall have power to require any officer of the city to exhibit his books and papers, and the refusal of any officer, when so required, shall be deemed a forfeiture, and the abandonment of said office. The mayor shall have the exercise of such other powers, and perform such other duties as may be conferred or required by the city council, not inconsistent with this charter. The mayor shall not be absent from the city, unless in case of sickness, for more than seven days at any one time, without the consent of the city council.

City Court.

Sec. 24. The judicial power of the city of Dallas shall be, and the same is hereby vested in a court, to be known as the Dallas City Court, to be presided over by a judge, to be known as city judge, which court is hereby created and established, with a criminal jurisdiction as follows: First, to try, hear, determine, and punish all misdemeanors over which the Dallas City Court now has jurisdiction. Second, to try, hear, determine and punish all misdemeanors arising under the provisions of this charter; to have concurrent jurisdiction with the State courts over all misdemeanors against the State laws, committed within the city limits, except theft and those involving official misconduct, and to have exclusive jurisdiction over disorderly houses and female vagrants.

Sec. 25. The city court shall be deemed always open for the trial of said causes, and proceedings before said court shall be commenced by filing a written complaint, specifying the charges made against the accused with reasonable certainty, which complaint shall be sworn to, and shall not be quashed for any formal defects, if it substantially sets forth the nature of the violation alleged. Said court shall have no civil jurisdiction.

Sec. 26. All process of said court shall run in the name of the city of Dallas, and shall be served and executed in the same manner as like process issuing from a State court, unless herein otherwise provided. The practice and procedure of the State courts, so far as applicable and practicable, shall govern said city court, unless otherwise provided herein or by ordinance of the city council.

Sec. 27. There is hereby created the office of city judge. Said city judge shall be a resident of said city, and a qualified voter therein. He shall be a person learned in the law. He shall hold his office for two years, and until his successor is elected and qualified; he shall preside over, and hold said court, and discharge all the duties thereof. This section shall in no way interfere with or change the term of office of the present city judge.

Sec. 28. He shall have full power and authority to enforce all powers of said city court. He shall have full power to issue subpoenas for witnesses, and to compel their attendance by process of attachment. He may punish all contempts of his court by fine and imprisonment, or either; he may issue subpoenas, writs of *habeas corpus*, warrants of arrest, search warrants, executions, and all process known to law, which State courts in such cases may issue. He may require of any person arrested, a bond for his or her good behavior, and to keep the peace, or for his or her appearance before said court, with two good and sufficient sureties, which bonds, as well as all other bonds taken in any proceeding in said court, shall be payable to the city of Dallas. He shall have full power to administer official oaths and give certificates therefor. The city council may determine what costs, if any, shall be charged for proceedings, and for all process issued by said court, and shall allow the judge thereof, for his services, a salary of fifty dollars per month. He shall perform all the duties herein required, and such other duties as may be prescribed by ordinance, not inconsistent with the constitution of this State. All fines imposed by said court shall be paid into the city treasury for the use

of the city. The city council shall provide said court with a seal, and shall make the city secretary ex officio clerk of said court, who shall serve without extra compensation. In case of temporary failure to act, for any cause, on the part of the judge, the mayor is hereby authorized to appoint some person qualified, who shall discharge the duties of said office and receive the pro rata compensation due therefor; and in such cases, the mayor may appoint a member of the city council, otherwise qualified; provided, such member shall not be entitled to receive compensation as judge and alderman at the same time.

Sec. 29. All jurors in said court shall be residents of said city, and otherwise possess the same qualifications as jurors in State courts. They shall be summoned and selected in such manner as the city council may provide by ordinance.

Sec. 30. No appeals shall lie from this court unless the fine imposed is twenty dollars or more, and then only to the Court of Criminal Appeals. Said appeals shall be governed by the rules of practice and procedure for appeals from the county court to said court of appeals, so far as the same may be practicable.

Police Department.

Sec. 31. There shall be a police department, composed of a chief of police, who shall be elected as heretofore provided, and such policemen as may be employed on the force, and a police board, composed of the mayor and any two aldermen selected for that purpose. The mayor shall be chairman of said board. (Said board) shall make such rules and regulations for the government of said department as to them may seem best.

Sec. 32. The chief of police shall be the chief police officer of the city under the mayor. He may appoint one or more deputies, and shall, either in person or by deputy, attend all meetings of the council, and upon the city court, and promptly and faithfully execute all writs and process issued from said court. He shall have like power with the sheriff of the county to execute search warrants and other writs. He shall be active in quelling riots, disorders, disturbances of the peace and violations of every kind within the city limits, and shall take into custody all persons thus offending, and may take good and sufficient bail for the appearance before the city court of any person charged with any offense against the ordinances or laws of the city. It shall be his duty to arrest without warrant, all violators of said ordinances or laws, and all who obstruct or interfere with him in the discharge of his duties. In the prevention and suppression of crime and arrest of offenders, he shall have the same power of a sheriff of a county under the laws of the State. He shall perform such other duties and possess such other powers as the council may by resolution or ordinance require or confer. He shall receive for his services a sum not to exceed eighteen hundred dollars per annum.

DUTIES OF OTHER OFFICERS.

City Secretary.

Sec. 33. It shall be the duty of the city secretary to attend every meeting of the council, and keep accurate minutes of the proceedings thereof in a book to be provided for that purpose, and to engross and enroll all laws, resolutions and ordinances of the city; to preserve and keep in order all books, papers, documents, records and files of said council, to countersign all commissions and licenses issued by the mayor, and to keep a record of them, and draw all warrants on the treasurer, and countersign the same. He shall have custody of all laws and ordinances of said city. He shall have custody of the seal of corporation, and shall only affix the same to the obligations of the city by order of the city council. He shall perform such other and further duties as may be required of him by the council, by resolution, ordinance, or otherwise, and give such bond, and receive for his services a sum not to exceed twelve hundred dollars per annum.

City Attorney.

Sec. 34. The city attorney shall attend to all cases in any court in this State wherein the city may be a party in interest, unless the council otherwise provides. He shall draw all ordinances and inspect and pass upon all papers and documents involving any interest of the city. He shall be the legal adviser of the mayor, the city council, or any committee thereof, and all city officers upon legal questions touching their official duties. He shall receive for his services a sum not to exceed eighteen hundred dollars per annum, give such bond, and perform such other duties as the council may prescribe.

City Engineer.

Sec. 35. The city engineer shall inspect and pass upon the construction of all public works ordered by the city, except as otherwise provided by this act, and shall make out plans and specifications and estimates therefor. He shall do the surveying and the engineering ordered by the city; he shall preserve all plans, maps, notes, surveys, books, papers and documents, and other things pertaining to his office, made by him, or in his charge, and deliver the same to his successor in office. He shall have such other powers and perform such other duties as may be required of him by the council, by resolution, ordinance, or otherwise. The city engineer shall receive for his services a sum not to exceed fifteen hundred dollars per annum, and give such bond as may be required by the city council.

City Collector.

Sec. 36. The city collector shall collect all taxes due the city, whether the same be general, special, special assessment, occupation, license or otherwise, and shall pay the same over to the city treasurer promptly as

collected, taking duplicate receipts therefor, one of which he shall retain, and the other he shall return to the council. He shall, monthly or oftener, if required, make a detailed report to the council of all collections made by him. He shall be vigilant, and see that no business of any kind is conducted without the license or occupation tax due therefor shall have first been paid. He shall be responsible for all acts of his deputies. He shall be vigilant in collecting all delinquent taxes, and enforce their collection as herein provided, and as may be provided by ordinance only. He shall give bond in such amount and form as the council may prescribe, with good and sufficient sureties. The council may require a new bond of him if in their opinion the existing bond is insufficient, and whenever such bond is required he shall perform no other official act until such bond shall be given and approved. He shall receive for his services a sum not to exceed fifteen hundred dollars per annum. He shall have all the powers, and perform all the duties herein provided, and such others as the council may confer and prescribe.

Treasurer.

Sec. 37. The city treasurer shall give such bond as the city council may require, conditioned for the faithful discharge of his duties. He shall receive and securely keep all moneys belonging to the city, and make all payments for the same upon the order of the mayor, attested by the secretary, under seal of the corporation; provided, that no order shall be paid unless it shows upon its face that the city council or board of education, as the case may be, has ordered its issuance, and for what purpose. He shall render a full and correct statement of his receipts and payments, to the city council, at their first regular meeting in every month, and at such other times as the council may require. He shall perform such other acts and duties as the council may require, and receive for his services five dollars per annum.

Assessor.

Sec. 38. The city assessor shall assess all taxable property in the city in such manner and within such time as the city council may prescribe. He shall make duplicate assessment rolls, and on their completion and approval by the council he shall deliver one to the city secretary and the other one to the city collector. The assessor is hereby authorized to require property owners to render a correct account of their property under oath or affirmation to be by him administered. He shall have such other powers and perform such other duties as the city council may confer and prescribe by ordinance, and shall receive for his services a sum not to exceed fifteen hundred dollars per annum.

Superintendent of Waterworks.

Sec. 39. The superintendent of water works shall have full charge of the city waterworks and property connected therewith, and shall manage and control the same. He shall inspect all parts of said waterworks and see that they are in good condition for use, and are being properly cared for, and that all employes of this department are attending to their

respective duties. He shall keep in good repair, the pumps, machinery, hydrants and all other waterworks fixtures. He shall employ all laborers in the department, and discharge the same, subject to the approval of the water commissioners. He shall have charge of the construction of all waterworks extensions and improvements, and he shall be a competent-engineer, and shall have had at least two years of service in such work. He shall perform such other duties as may be prescribed by the city council by ordinance, and shall receive for his services a sum not to exceed fifteen hundred dollars per annum.

City Auditor.

Sec. 40. The city auditor shall be bookkeeper of the city and keep the necessary books to show all transactions relating to accounts, contracts, and indebtedness of the city, its revenue and expenditures of all kinds. He shall, subject to the approval of the city council, establish proper rules for the government of his office, and prescribe the form of books and accounts and certificates and receipts to be used in the different offices of the city. He shall require accounts and settlements to be verified by affidavit whenever he deems proper, and no accounts against the city of Dallas shall be paid without first having been submitted to and approved by the auditor, and all warrants on the city treasurer must be audited by the city auditor. He shall examine, adjust and audit all unsettled accounts, claims, and demands against the city, for the payment of which any money may be drawn from the city treasurer, certify the true state of such claims or demands and report the same to the city council or board of education as the case may be. He shall examine all principal reports of the different city officers, also examine the official books, accounts, and records of every officer of the city who receives or pays out any money of the city, and report the condition of same to the mayor or city council. He shall, at all times, have free access to any of said offices, and all reports, books, stubs, papers, accounts, receipts, permits, estimates, and everything necessary to give him full information upon the matters by him being investigated. He shall, at least once a quarter, make out and present to the city council, a complete statement of the revenues, funds, and resources of the city, and of the expenditures and disbursements since his last report. It shall be his duty to furnish to the city council information on any subject connected with his office, and to suggest plans for the management of the revenues and the liquidation of claims for which the city may be liable. He shall, whenever required, furnish the mayor or city council, or any committee thereof, copies or abstracts of any books, accounts, records, documents or papers of any kind in his office, or any information in relation to anything pertaining to his office, or the revenues of the city, and he shall permit the mayor or any member of the city council, or any officer interested, to examine any books, papers, records, or documents of any kind in his office. He shall perform such other and further duties as may be required of him by the city council, by ordinance or otherwise, and give such bonds as the council may prescribe, and receive for his services a sum not to exceed sixteen hundred and twenty dollars per annum.

Health Officer, Secretary of the Waterworks, Chief of Fire Department.

Sec. 41. The health officer, secretary of the waterworks, and chief of the fire department shall each have such powers and perform such duties as the city council may confer and prescribe, by ordinance or otherwise. The health officer shall receive for his services a sum not to exceed fifteen hundred dollars. The secretary of the waterworks shall receive for his services a sum not to exceed nine hundred dollars. The chief of the fire department shall receive for his services a sum not to exceed twelve hundred dollars; and each of said officers shall give such bond as the city council may prescribe.

Sec. 42. The city council shall have power, from time to time, to require other duties of all city officers.

Sec. 43. The city council shall be composed of the mayor and aldermen provided for in this charter. The mayor shall be president of the council, and in case of a tie on any question he shall cast the deciding vote, but in elections he shall vote as other members of the council. At the first meeting of each new council, or as soon thereafter as practicable, the council shall elect one of the aldermen mayor pro tem., who shall hold his office for one year. In case of the failure, inability or refusal of the mayor to act, the mayor pro tem. shall perform the duties. In case of the temporary absence or inability of both the mayor and mayor pro tem. to act as mayor, the city secretary, upon the written request of six or more aldermen, shall call the city council together, and said city council shall elect one of their number to fill the office of mayor during such time. The person so appointed shall possess all the power and perform all the duties required of the mayor during such time.

Sec. 44. A majority of the aldermen shall constitute a quorum for business, but a smaller number may adjourn from day to day, and may compel the attendance of the absent members. At meetings for the imposition of taxes, two-thirds of a full board shall be required. Regular meetings of the council shall be at such times as the council may fix by resolution or otherwise, but the mayor, on his own motion, may, or at the request of seven or more aldermen, shall, call special meetings by written notice thereof served upon each member, or left at his place of abode or usual place of business. Such notices shall state the object or purposes for which such meeting is called.

Sec. 45. The city council shall adopt such rules and regulations for its government and order of business as its members may deem best. It shall be the judge of the qualifications and election of its members, including the mayor. It shall also be the judge of the election and qualification of all city officers. It may punish members or other persons during its sittings for disorderly conduct, by fine. It may, with an affirmative vote of two-thirds of the whole number of aldermen elected and qualified, the yeas and nays being called for and recorded, remove any officer of the city for any conduct or offense which, in the opinion of the council, expressed by the two-thirds vote aforesaid, shall render him unfit to hold his office; but no officer shall be removed until he shall have had the opportunity of being heard, himself, or by counsel, or by both.

Sec. 46. The meetings of the council shall be public except when by

a majority of the members present it may be deemed expedient to deliberate with closed doors upon any special question.

Sec. 47. A record of the council proceedings shall be kept by the city secretary, and each vote taken by the yeas and nays shall be entered therein, and no action of the council shall have any force unless a majority of the members present shall have voted in favor of it.

General Powers of the City Council.

Sec. 48. The city council shall have the management and control of the finances and all of the property, real and personal, or mixed, belonging to the city.

Sec. 49. The city council shall have power to appropriate money and provide for the payment of debts and expenses of the city.

Sec. 50. To provide by ordinance special funds for special purposes provided for under the provisions of this charter, and to make the same disburseable only for said purposes, and to impose proper penalties for enforcing the same.

Sec. 51. To provide by ordinance for the payment of any existing and outstanding indebtedness, and for the payment of any bonds that may from time to time be issued, and shall, for such purposes, have the power to levy, assess and collect a special tax.

Sec. 52. To make regulations to prevent introduction of contagious diseases into the city; to make quarantine laws for that purpose, and to enforce them within the city and within ten miles thereof.

Sec. 53. To provide, or cause to be provided, the city with water; to make, regulate and establish public wells, pumps, cisterns, hydrants, reservoirs and stand-pipes in the streets or elsewhere in said city, or beyond the limits thereof, for the convenience of the inhabitants and the extinguishment of fire, and to prevent the unnecessary waste of water, and to condemn all right of way necessary for any of said purposes.

Sec. 54. The city council shall have exclusive control and power over the streets, alleys, crossings, highways, and public grounds in the city, and to abate and remove all encroachments or obstructions thereon; to open, alter, abolish, widen, extend, establish, regulate, grade, pave, clean, or otherwise improve said streets, and to protect the same from all encroachments and injury of any kind whatsoever.

Sec. 55. To establish, erect, construct and keep in repair bridges, culverts, conduits, sewers and sidewalks, and to regulate the construction and use of same, and to abate or punish any obstruction or encroachment thereon. The cost of constructing sidewalks, together with the cost of collection, shall be entirely defrayed by the property owners, in such manner as the city council may provide, and shall be a perpetual lien on the property in question until paid. The cost of sewers shall be paid as hereinafter provided.

Sec. 56. To prevent the encumbering of streets, alleys, sidewalks and public grounds with carriages, wagons, carts, hacks, buggies, or other vehicles, with boxes, timber, firewood, posts, awnings, signs, or anything whatever, in any manner whatever; to compel all persons to keep all weeds, filth, rubbish, trash of every kind from their premises and from the sidewalks, streets and gutters in front of the premises occupied by them, and to pass all ordinances necessary to enforce such things.

Sec. 57. To permit, prevent, and regulate the laying of gas and water mains and pipes therein. To compel any person using the streets, alleys or sidewalks for the purposes of laying gas or water mains and pipes, sewer pipes, or for building or other purposes, to repair, clean up and restore said streets, sidewalks and alleys so used.

Sec. 58. To prevent any street or sidewalk from being dug up or excavations to be made therein, unless the same be done with the permission of the city council and under the direction of the city engineer.

Sec. 59. To regulate, establish and change the grade of all sidewalks, streets and premises, and to require and compel the filling up and raising of the same.

Sec. 60. To divide and re-divide the city into wards, and alter the boundaries thereof for the purpose of equalizing the population of the several wards.

Sec. 61. To provide for the lighting of streets, public grounds and public buildings, and furnishing the citizens of said city with light, and to erect, own, use, and operate all necessary machinery, fixtures, appliances and appurtenances, of every nature whatever, necessary for said purposes, and to demand and receive compensation for lights furnished for private purposes, and to provide for the location and regulation of such lights.

Sec. 62. To provide for the erection of market houses, establish markets and market places, and provide for the government and regulation thereof; to provide all needful buildings for the use of the city; to provide for enclosing, improving, ornamenting, and regulating all public grounds belonging to the city; to provide hospitals and regulate and maintain the same, and to permit or prohibit private hospitals; to establish an active system of inspection over premises and the conduct of persons.

Sec. 63. To establish and regulate public grounds, and to regulate, restrain and prohibit the running at large of horses, cattle, sheep, swine, goats, geese and other animals in the city, and to authorize the distraining, impounding, and sale of the same for the costs of the proceedings and penalty incurred, and to order their destruction when they can not be sold, and to impose penalties on the owners or keepers thereof for violation of any ordinance, whether they reside in or out of the city, and at all such sales the purchaser of any animal shall be deemed to acquire a good and valid title thereto, if provisions of the ordinances have been complied with, whether the owner of such animal resides in or out of the city.

Sec. 64. To establish and maintain a city police, prescribe the duties and powers of policemen, and regulate their conduct.

Sec. 65. To regulate, restrain, locate, abate or prohibit slaughter houses, glue factories, bone boilers, hide houses, or establishments for curing hides, soap factories, places for rendering lard, tallow, offal and other substances that can be rendered, and all other establishments where any nauseous, dangerous, offensive, or unwholesome business may be carried on.

Sec. 66. To regulate the storage and transportation of all illuminating oils, high explosives, gunpowder, tar, pitch, and all other inflammable oils and combustibles of every kind.

Sec. 67. To regulate parapet walks; to prevent dangerous construc-

tion and condition of chimneys, fire places, hearths, stoves, and stove pipes, boilers, and other heating apparatus, and cause the same to be removed and made safe.

Sec. 68. To prevent the deposit of ashes in unsafe places, and cause the removal from one's premises of all trash, old papers, straw, goods boxes, barrels and anything else dangerous on account of fire, and of all filth, slops, and animal and vegetable matter, and everything else offensive and dangerous to health and comfort, and to cause all buildings and enclosures in a dangerous state to be put in a safe condition.

Sec. 69. To regulate or prevent the carrying on of manufactories and works dangerous in causing or promoting fires, and to regulate the location of cotton presses, sheds, and other buildings dangerous on account of fires.

Sec. 70. To regulate the size, number and manner of construction of doors and stairways of theatres, tenement houses, audience rooms, public halls and all buildings used for the gathering of a large number of people, whether now built or hereafter to be built, so that there may be convenient, safe and speedy exit in case of fires.

Sec. 71. To require the construction of suitable fire escapes on or in hotels, lodging houses, factories and other buildings, whether now built or hereafter to be built.

Sec. 72. To establish and maintain a fire department, fix the number and compensation of all firemen, employes and members of the department, prescribe their respective duties, regulate their appointment and dismissal, and fix penalties for the violation of all regulations pertaining thereto; to procure steam fire engines and other apparatus for extinguishing fires; provide for the care, management and maintenance of same, and do everything whatever necessary for the regulation and maintenance of such department.

Sec. 73. To regulate, prevent and prohibit the use of fire works and fire arms.

Sec. 74. To compel the owners or occupants of houses or other buildings to have scuttles in their roofs and stairs or ladders leading to the same.

Sec. 75. To establish fire limits, and prohibit the erection, building, placing, removing or repairing of wooden buildings within said limits; also to prohibit the removal of any wooden building from one place to another, within said limits, and may require all buildings within said limits to be constructed with fire proof material; also may prohibit the repairing of wooden buildings within said limits when the same shall have been damaged thirty-three and one-third per cent of their value, and may provide the mode of ascertaining such damage; also may declare all dilapidated wooden buildings, which they deem dangerous on account of fire, nuisances, and require the same to be removed in such manner as the council may direct.

Sec. 76. To authorize one or more officers, agents or employes of the city to enter in and upon all buildings and premises, to examine and discover whether the same are dangerous on account of fire, or in any unclean state, and cause all defects to be remedied, and filth and trash to be removed, and generally the council shall have power to establish such regulations for the prevention and extinguishment of fires as it may deem expedient.

Sec. 77. The city council shall have the exclusive right to erect, own, maintain and operate waterworks for the use of the city and its inhabitants, and to regulate the same; to prescribe rates for water furnished to said inhabitants, and make such rules and regulations as the said council may deem expedient; also shall have power to acquire, by purchase or donation, suitable grounds on which to erect such works, and all necessary right of way, and do everything whatsoever necessary to operate and maintain said works, and to compel the owners of all property and the agents of such owners to pay all charges for water furnished on such property.

Sec. 78. To provide workhouses for vagabonds and disorderly persons who are unable or refuse to pay fines, or who have been sentenced to fine and imprisonment, or to compel them to work on the streets, alleys, and any public works, and make all necessary regulations concerning the same, and to provide, keep, and regulate a city prison.

Sec. 79. To define what shall be nuisances in the city, and within three thousand feet of the corporation lines, and to abate them by summary proceedings, and to punish the authors thereof by penalties, fines and imprisonment.

Sec. 80. To provide for the removal of all filth, carcasses of dead animals, and other unhealthful substances from the city, and to compel the owners and occupants of all premises to keep them in a cleanly condition; to appoint one or more city scavengers, and require all persons to employ him for scavenger service; to fix the compensation of such scavenger, and compel all persons whom he serves to pay him such compensation as may be fixed by the city council.

Sec. 81. To provide for and regulate the inspection, weight and quality of everything to eat and drink offered for sale in said city. To provide for the inspection and weighing of hay and coal, and the measurement of firewood and other fuel to be sold in the city.

Sec. 82. To provide for taking the enumeration of the inhabitants of the city.

Sec. 83. To prescribe fines, forfeitures and penalties for breach of any ordinance, enforcing the powers granted in this charter, and to provide for the recovery and appropriation of such fines and forfeitures, and the enforcement of such penalties.

Sec. 84. The city council shall have full power and authority by ordinance to regulate, control and prohibit the carrying of fire arms and other weapons within the city limits, and is hereby empowered to provide and inflict the same punishment therefor as is now or hereafter may be provided by the State law against persons unlawfully carrying weapons.

Sec. 85. To tax, regulate, restrain or prohibit the running at large of dogs, and authorize their destruction when at large contrary to ordinances, and to impose penalties on the owners, harborers or keepers thereof for violation of such ordinances.

Sec. 86. To provide for the suppression and prevention of any riot, rout, noise, affray, disturbance or disorderly assembly in any public or private place within the city.

Sec. 87. To prevent, prohibit, and suppress horse racing, immoderate riding or driving in the streets; to prohibit and punish abuses and cruelty to animals, birds and fowls of every kind; to compel persons to fasten

their horses or animals attached to vehicles, or otherwise, while standing or remaining in the streets or other public places.

Sec. 88. To prohibit and restrain the rolling of hoops, the flying of kites, firing of firecrackers and fireworks of every kind, the riding of bicycles, tricycles or any other amusement having a tendency to annoy persons passing in the streets or on the sidewalks; to restrain and prohibit the ringing of bells, the blowing of horns and bugles, the crying of goods and all other noises, practices and performances tending to collect persons on the streets or sidewalks by auctioneers and others for the purpose of business and otherwise.

Sec. 89. To restrain, regulate, and punish vagrants, street beggars and prostitutes.

Sec. 90. To do all acts and make all regulations which may be necessary and proper for the promotion of health or the suppression of disease. To compel the owners or occupants of any unwholesome house or place to cleanse, remove or abate the same, as may be necessary for the health, comfort and convenience of the inhabitants.

Sec. 91. To regulate the burying of the dead, the registration of births and deaths, direct the keeping and returning of bills of mortality, and impose penalties on physicians, undertakers, sextons and others, for any default in the premises.

Sec. 92. To prevent all boxing matches, sparring exhibitions, cock fighting and dog fighting, and punish all persons thus offending.

Sec. 93. To prevent all trespasses, breaches of the peace and good order, assaults, assaults and batteries, aggravated assaults and batteries, fighting, quarreling, using abusive and insulting language, misdemeanors and all disorderly conduct of every kind, and to punish all persons thus offending with the same penalties as may be inflicted therefor by the State laws. To regulate or prevent drumming on the streets or sidewalks, railway platforms or other public places.

Sec. 94. To control and regulate the location and use of steam engines in the city, and prescribe the qualifications of persons operating and running same, and to adopt such rules and regulations in relation thereto as may seem best for the public safety and comfort.

Sec. 95. To regulate, license or prohibit butchers, and prevent their slaughtering animals in the city limits, and revoke their license for misconduct in trade, and regulate, license, and restrain the sale of fresh meats, fish, fruits, and vegetables.

Sec. 96. To compel the owner or occupant of any grocery, soap, tallow or chandler establishments, or blacksmith shop, tannery, stable, slaughter house, distillery, brewery or other building, or sewer, privy, hide-house, or other unwholesome or nauseous place or house, to cleanse, remove, fill up, repair or abate the same, as may be necessary for the health, comfort and convenience of the inhabitants.

Sec. 97. To require the owners of private drains, sinks and privies, to fill up, cleanse, drain, alter, relay, repair, fix and improve the same, as they may be ordered by resolution or ordinance, and impose penalties upon persons failing to do the same. If there be no person in the city upon whom such order can be served, the city can have such work done, and costs of the same shall be a lien on the property and taxed up against it, collected in such manner as the city council may determine.

Sec. 98. To prevent any person from bringing, depositing or having

within the city limits, the carcass of any dead animal, or other unwholesome substance or matter, or filth of any kind, and to require prompt removal of the same, and impose all necessary penalties for the enforcement of such powers.

Sec. 99. To provide for sprinkling the streets, avenues and public grounds.

Sec. 100. To license, tax and regulate merchants, commission merchants, hotel and inn keepers, drinking houses or saloons, bar rooms, beer saloons, and all places or establishments where intoxicating or fermented liquors are sold, brokers, money brokers, real estate agents, insurance agents, insurance brokers, auctioneers, and all other trades, professions, occupations and callings of every kind, the taxing of which is not prohibited by the Constitution of the State, which tax shall not be construed to be a tax upon property; provided, no occupation tax shall be levied against any laborer, as such, or any clerk, accountant, bookkeeper, or other person working at his trade as a journeyman. To license, tax, or regulate any itinerant or transient vendor of clothing or wearing apparel or article of bedding or merchandise of any description whatever.

Sec. 101. To license, tax and regulate, or prevent or suppress paupers, peddlers, pawnbrokers, and keepers of theatrical or other exhibitions, shows and amusements. To license, tax and regulate or prohibit theatres, circuses, the exhibition of common showmen, and of shows of any kind, and the exhibition of natural or artificial curiosities, menageries and musical exhibitions and performances, and to regulate and license or prohibit street parades, pool tables, striking machines, lung testers, doll racks, cane racks and exhibitions, devices and things for which a fee is charged.

Sec. 102. To license, tax and regulate hackmen, draymen, omnibus drivers, baggage wagon drivers, and drivers of vehicles of every kind, and all others pursuing like occupations, with or without vehicles, and prescribe their compensation, and make it a misdemeanor for any person to attempt to defraud them of any legal charge for services rendered; and to regulate stands for vehicles, and regulate, license and restrain runners for railroads, vehicles of any kind, hotels, public houses of any kind, or other business of any kind.

Sec. 103. To license, tax and regulate billiard tables, pin alleys and ball alleys, to suppress, restrain and regulate and control disorderly houses, tippling shops and groceries, gambling and gaming houses, and games of every kind, lotteries and all fraudulent devices and practices, bawdy houses of prostitution, and to punish all keepers of said houses, and exhibitors or players at said games and other things, with the same penalties, fine and imprisonment as may be inflicted therefor by the statutes of the State of Texas.

Sec. 104. To restrain, regulate and prohibit the selling or giving away indirectly, to evade a tax or penalty, of intoxicating or malt liquors, or any thing by any person within the city, except by persons duly licensed; to forbid and punish the selling, bartering, or giving away of any intoxicating or malt liquors to any minor, apprentice or habitual drunkard.

Sec. 105. To regulate the inspection of beef, pork, flour, meal, fish, salt and other provisions, whisky and other liquors, and to appoint weighers, gaugers, and inspectors, and prescribe their duties and powers, and regulate their fees.

Sec. 106. To open, close and regulate saloons and all places where intoxicating or fermenting liquors are sold, on Sunday, and to prescribe what hours on Sunday such sales can be made, and what hours such places must be closed and sales prohibited, also all places of amusement and business.

Sec. 107. To prevent the sale, bartering and giving away of any intoxicating liquors in any house or place where any theatrical or dramatic representations are given, and prevent the same from being brought in or to such places under any pretext whatever. All rooms, buildings or apartments of any kind inside of the room where such representations are given, or being a part of it, or adjoining or connected therewith by any door or doors, dumb waiter or opening of any kind, shall be held to be within the places inhibited by this section.

Sec. 108. To regulate and prohibit the locations of saloons in resident portions of the city, and to establish saloon limits and prohibit the location of saloons outside of said prescribed limits.

Sec. 109. To make needful and proper regulations concerning bakers, butchers, hotel keepers, theatres and other public houses; also all draymen, horse drivers, water carriers, omnibus drivers, hack drivers, and drivers of baggage wagons and other vehicles, and especially to preserve order and prevent noise and confusion in and about the several depots on the arrival and departure of trains, and to make and regulate stands for vehicles at said depots and other public places.

Sec. 110. To regulate or prohibit the driving of cattle and other stock through the streets of the city.

Sec. 111. To inspect the construction of all buildings in the said city. To regulate and locate the erection of all poles in the city, and cause the same to be changed, whether telegraph, telephone, electric light or otherwise.

Sec. 112. To regulate the speed of engines and locomotives within the city.

Sec. 113. To direct and control the laying and construction of railroad tracks, turn-outs and switches, and to require that they be constructed and laid so as to interfere as little as possible with the ordinary travel and use of the streets, and to require that they be kept in repair. To regulate the use of locomotive engines, to direct and control the location of cable and other street and railroad tracks, and all steam railroad tracks, and to require railway companies of all kinds to construct at their own expense such bridges, turn-outs, culverts, crossings and other things as the city council may deem necessary. To regulate the speed of all railroad trains within the city limits, and their stops at street crossings, and to require said companies to keep the streets through which they run in repair, and to light the same whenever deemed necessary, and to prescribe the kind of light to be used, and to levy special taxes or assessments upon them for street improvement the same as against property owners.

Sec. 114. To prevent and regulate the running of horse railway cars, or cars propelled by dummy engines or other power, the laying down tracks for same, the transportation of passengers thereon, the form of rail to be used, and everything else concerning street railways, and to levy special taxes or assessments against such roads for street improvement, the same as against property owners.

Sec. 115. The city shall have the power to acquire and own within or without the city limits, either by purchase, donation, bequest or otherwise, all property it may need for any municipal purpose whatever, and all necessary right of ways thereto, and shall also have the power to sell and dispose of the same.

Sec. 116. The city council shall have the sole authority to grant upon such terms as it may see fit the right to any person, corporation, or company to make and construct street railways in any street or highway in said city, receive compensation therefor, and to regulate and control the use thereof; provided the owners of a majority of front feet, exclusive of street intersections, on each street composing the line or road are willing.

Sec. 117. No railroad company, street, steam, or other kind, no telephone, telegraph, electric light company or other kind, no person or corporation, shall ever occupy or use the streets or highways of the city of Dallas without first obtaining the consent of the city council, and shall pay for such privilege reasonable and just compensation which shall be regulated and changed from time to time by the city council as in their opinion may be reasonable and just.

Sec. 118. The city council shall have power to levy and collect the ordinary municipal taxes upon the roadbed, rights, franchises, and all other property of street railroads of every kind, whether their motive power be steam, horse, mule, electricity, or otherwise. Also to require them to pay their pro rata share of paving and improving the space between the rails of such road on any street improved occupied by them, including street intersections; and shall have power to levy and collect special assessments against such roads and their owners, for such purpose, and such assessments shall be a lien on such roads and all their rights and franchises, and shall be collected as such taxes are collected from other property owners on the streets so improved.

Sec. 119. The city council shall have power to provide by ordinance for funding the whole or any part of the existing debts of the city, or any future debt, by cancelling the evidences thereof, and assuring to the holders or creditors notes or bonds, with or without coupons, bearing interest not to exceed six per cent per annum.

Sec. 120. The council shall have power to appropriate so much of the general revenue of the city for the purpose of retiring and discharging the accrued indebtedness of the city, and for the purpose of improving the streets, constructing sewers, erecting and maintaining public buildings of every kind, water works, and for the purpose of erecting, maintaining and operating an electric light plant, etc., as the council may from time to time deem expedient, and in furtherance of any and all these objects the city shall have the right and power to borrow money upon the credit of the city and to issue coupon bonds of the city therefor in such sum or sums as may be deemed expedient, to bear interest not to exceed six per cent, payable semi-annually, at such place or places as may be designated by the city ordinance; provided, that the aggregate amount of said bonds shall at no time exceed the present bonded indebtedness of the city; provided, that nothing in this section shall prohibit the issuance of bonds necessary to construct an electric light plant not to exceed fifty thousand dollars.

Sec. 121. All bonds shall specify for what purpose they are issued, and shall not be invalid if sold for less than their par value, and when any bonds are issued by the city a fund shall be provided to pay the interest and create a sinking fund to redeem said bonds, which fund shall not be diverted or drawn upon for any other purpose, and the city treasurer shall honor no drafts on said funds except to pay the interest upon or redeem the bonds for which it was provided.

Sec. 122. Said bonds shall be signed by the mayor, countersigned by the city secretary, and shall be payable at such places and such times as may be fixed by ordinance of the city council, not more than fifty years.

Sec. 123. It shall be the duty of the mayor when such bonds are issued to forward the same to the Comptroller of the State, whose duty it shall be to register them in a book for that purpose, and to endorse on each bond registered his certificate of registration, and at the mayor's request certify the amount of bonds so registered in his office up to date.

Sec. 124. It shall be the duty of the mayor at the time of forwarding said bonds for registration, to furnish the Comptroller with a statement of all taxable property, real and personal, in the city; also with a statement of the amount of tax levied for the payment of interest and to create a sinking fund. It is hereby made the duty of the Comptroller to see that a tax is levied and collected by the city sufficient to pay the interest semi-annually on all bonds and create a sinking fund sufficient to pay said bonds at maturity, and see that said sinking fund is annually invested in good interest bearing securities or applied to the redemption of the bonds for which it was set aside.

Revenue.

Sec. 125. The city shall have power, and is hereby authorized to annually levy and collect taxes not exceeding one and one-half per centum of the assessed value of all real and personal property in the city not exempt from taxation by the Constitution and laws of the State; provided, that the city council shall have the power to levy and collect an additional one per cent on the assessed value of all taxable property, real and personal, in said city not exempt as aforesaid, if two-thirds of those authorized to vote on the assumption of debt by Section 3, Article 6, of the State Constitution, shall first have voted in favor of such levy at an election duly ordered for such purpose, the whole number of votes to be determined by the number voting at this election. The city council shall have the right to annually levy and collect a poll tax not exceeding one dollar for every year upon all male inhabitants over the age of twenty-one and under sixty, residents of the city at the time of the assessment.

Sec. 126. That in accordance with Section 10, Article 11, of the State Constitution, the council may levy a special tax for one or more years for the purchase of ground, erection of buildings and the support and maintenance of a seminary, academy or high school in connection with the public schools of the city. May also levy a special tax, in accordance with the State law, for the purpose of erecting additional public school houses or repairing those already built, or for the purchase of grounds therefor. The funds so raised shall be appropriated exclusively for the purpose named, and shall not be diverted therefrom. The aggregate tax

levied for either or all of said purposes in any one year shall never exceed one-fourth of one per cent ad valorem on the taxable value of all property in the city. No such tax shall be levied until the question shall have been submitted to a vote of the tax payers at a special or general election of those entitled to vote thereon by the Constitution of the State. Such election shall be ordered by resolution of council as in other elections.

Sec. 127. The city council shall have power to levy and annually collect taxes known as license or occupation taxes upon professions, callings and other business carried on, and upon carriages, hacks, coaches, buggies, drays, carts, wagons and all other vehicles used in the city for public use. That each and every person or firm engaged in the following professions, callings and business among others, shall be liable to pay such tax, but this enumeration shall not be considered to deprive the city council of the right and power to levy and collect other license or occupation taxes from other persons under the general authority herein granted. Every person or firm engaged in selling goods, wares and merchandise, liquors in quantities less than a quart, or in keeping any grog shop, tippling house, bar room, drinking saloon, or any place where spirituous, vinous or malt liquors, wine or beer are sold in quantities less than a quart; every person or firm keeping a billiard table, ball alley, nine or ten pin alley, or any similar game, or keeping a tavern, hotel or boarding house, restaurant, lunch stand, or place of any kind where refreshments are sold; every person or firm keeping a livery stable, sale stable, feed stable, or wagon yard; every person or firm selling goods, wares or merchandise at public auction, or pursuing the occupation of real estate agent, merchandise or cotton broker, commission merchant or broker of any kind, or hawker or peddler of any goods whatever; every person or firm keeping a storage or warehouse, or intelligence office, or brewery, or beer shop, distillery or fruit stand, or engaged in compressing cotton; every insurance agent, every insurance company, shall pay said tax, and every agent representing any such company which has failed to pay said tax shall be subject to a fine; every telegraph, telephone, electric light, gas, or other such company; every person or firm keeping a lumber, wood or coal yard, or any place for the sale of such articles, or building material of any kind, and all other persons or firms engaged in any profession, occupation, business, avocation or calling, subject to license tax, shall pay on each, and no license tax shall extend to more than one establishment or include more than one avocation, occupation, business or calling.

Sec. 128. To authorize the proper officer of the city to grant and issue license, and to direct the manner of issuing and registering the same, and fix the fees and charges thereof. No license shall issue for a longer period than one year, and shall not be assignable except by permission of the city council.

Sec. 129. No property of any kind—church, school, public or otherwise—in the city of Dallas, shall be exempt from any of the special taxes and assessments authorized by this charter for local improvements.

Sec. 130. The fiscal year of the city of Dallas shall begin and end at 12 o'clock, noon, on the third Monday in April in each year. The council, at the second regular meeting in June of each year, or as soon thereafter as practicable, shall levy the annual tax for such year; but special taxes

allowed by this charter may be levied, assessed and collected at such times as the council in each case may provide.

Sec. 131. All persons or corporations owning or holding personal property or real estate in the city of Dallas on the first day of January of each year, shall be liable for all municipal taxes levied thereon for the fiscal year beginning the next following April.

Sec. 132. The personal property of all persons owing any taxes to the city of Dallas is hereby made liable for all of said taxes, whether the same be due upon personal or real property or upon both.

Sec. 133. The city council shall have full power to provide by ordinance for the prompt collection of taxes assessed, levied and imposed, under this charter, and are hereby authorized, and to that end may and shall have full power and authority to sell, or cause to be sold, all kinds of property, real and personal, and may and shall make all such rules and regulations, and ordain and pass all ordinances deemed necessary to the levying, laying, imposing, assessing and collection of any taxes provided for in this charter.

Sec. 134. The city council shall have power to assess the property and shares of corporations, companies, banks, and such other institutions as the same are now or may be assessed by the State law in such cases made and provided, and shall have full power to enforce the collection of such taxes in such manner as by said council may be deemed necessary.

Sec. 135. The city council shall have power by ordinance to regulate the manner and mode of making out tax lists, inventories and appraisements of property therein, and to prescribe the oath that shall be administered to each person on rendition of his property, and prescribe how, when and where property shall be rendered, and prescribe the number and form of assessment rolls, and fix the duties and define the powers of city assessor, and adopt such measures as the council may deem advisable to secure the assessment of all property within the city limits, and collect the tax thereupon, and may provide a fine and imprisonment, or either, for all persons neglecting, failing or refusing to render their property for taxation.

Sec. 136. Every person, partnership, corporation and company owning or controlling property within the limits of the city on or before the first day of April, after published notice, shall render to the city assessor a full and complete inventory of the taxable property possessed or controlled by him, her or them, within said limits, on the first day of January last, verified, as required by ordinance; and any person failing or refusing to comply with the provisions of this section shall be liable to such fine as may be imposed by ordinance; and the city council shall, by ordinance, define the duties of taxpayers, and make all necessary rules and regulations to secure the rendition of property and the collection of taxes due thereon.

Sec. 137. The city assessor shall, at least ten days before the first day of January of each year, give public notice by hand bills circulated through the city and by advertisement in some paper that all persons owning or controlling, as agent or otherwise, any personal property or real estate subject to municipal taxation, are required to render on or before the first day of April of each year. All merchants doing business in the city are required, within the same time, to furnish the assessor a true statement, verified by affidavit, of all goods, wares and merchandise owned or kept on hand by such merchant on the first day of January.

Any merchant failing to comply with this requirement, shall be liable to such fine as may be imposed by ordinance.

Sec. 138. If the assessor shall discover any real or personal property which was subject to taxation for any previous year, and which from any cause has escaped taxation for that year, he shall assess the same in a supplement to his next assessment roll at the same rate under which such property should have been assessed for such year, stating the year, and the taxes thereon shall be collected in the same manner as other assessments; provided, that such supplemental roll shall be made at any time and reported to the city council for its approval, and any number of such rolls may be made that may be necessary. The taxes assessed in such supplemental rolls for years previous to the approval of such rolls, shall be due at once upon the approval of such rolls by the city council, and such taxes shall bear interest at the rate of ten per cent per annum from the date on which the same would have been delinquent if levied and assessed at the time other taxes for such previous year were levied and assessed, and if the same shall not be paid by the expiration of thirty days after the date of such approval, the city collector shall proceed to collect the same by the advertisement and sale of such property as soon as practicable; such advertisement and sale to be made in the same manner and for the same time as in cases of the sale of such property for other city ad valorem taxes as prescribed by the city charter; provided, that a misnomer of, or failure to name the owner in the assessment rolls shall not affect the validity of the assessment of any taxes; and provided, further, that where such taxes have not been attempted to be assessed for such previous year, such taxes shall bear interest only from the date of the approval of the supplemental rolls.

Sec. 139. The assessor shall assess all property which for any cause has not been rendered, placing such valuation thereon as he may deem just. If the owners of such property are unknown, such assessment shall made in the name of unknown.

Sec. 140. No irregularity in the time or manner of making or returning the city assessment rolls, or the approval of such rolls, shall invalidate any assessment.

Sec. 141. Whenever the assessor and party rendering can not agree as to the value of property, it shall be left to a board of appeals to decide the value, and such decision shall be final; said board to be composed of three disinterested freeholders, one to be appointed by the mayor, one by the judge of the Fourteenth and one by the judge of the Forty-fourth Judicial Districts, in January, or as vacancies occur, who shall hold their offices for one year, unless sooner removed by the council. A majority of the members of said board shall constitute a quorum for the transaction of business. Said board shall meet to hear appeals from parties aggrieved, and to regulate and supervise the assessment rolls on the first Monday in April of every year, and shall hold their sessions until all appeals have been heard and determined, and until said assessment rolls have been so regulated and supervised; said board shall not remain in session longer than one hundred and twenty days in any one year, and shall receive for their services a sum to be fixed by the council, not to exceed five dollars per day for the first sixty days and two dollars per day thereafter for each member of said board. The assessor shall give at least five days' notice of such meeting by newspaper publication. The

board shall have general supervision over the assessment rolls of the city, and shall have the right to diminish or increase the valuation of any property so as to correspond with the valuation of other similar property, and shall order any error in assessment, or any inequitable assessment, to be changed and corrected. The members of the board shall be sworn by the mayor or any officer qualified to administer oaths, to discharge their duties faithfully. They shall receive for their services such compensation as the city council may direct. Any one aggrieved by error of assessment may complain to the board in writing. No increase in the valuation of property shall be made without notifying the owners thereof by newspaper publication, or in such manner as the city council may provide.

Sec. 142. A lien is hereby created on all property, personal and real, in favor of the city of Dallas, for all taxes, ad valorem, occupation or otherwise. Said lien shall exist from January in each year until the taxes are paid. Said lien shall be prior to all other claims, and no gift, sale, assignment or transfer of any kind, or judicial writ of any kind, can ever defeat such lien, but the city collector can pursue such property, and wherever found, may seize and sell enough thereof to satisfy such taxes.

Sec. 143. If any one against whom a personal tax is assessed, and which is due and unpaid, whether the same be delinquent or not, shall have removed out of the city, or shall be about to remove out of the city, or shall have removed or about to remove his personal property out of the city, it shall be the duty of the collector to proceed at once and collect such taxes by seizure and sale of any personal property of such person, to be found in the city of Dallas, or anywhere in the State of Texas.

Sec. 144. All taxes shall be payable at the city collector's office, and the city council shall have full power to sell, or cause to be sold, all personal and real property for taxes due, and shall make all rules and regulations necessary for such purpose.

Sec. 145. No demand for taxes shall be necessary, but it is hereby made the duty of every person or corporation subject to taxation, to attend at the office of collector some time between the second Monday in June and November the first, in each year, and pay his or her taxes. If any one fails to pay them before the first day of November, the same shall be delinquent, and bear interest at the rate of ten per cent per annum.

Sec. 146. The collector shall, by virtue of his tax rolls, have power and authority to seize and levy upon personal property and real estate, and sell the same to satisfy delinquent taxes. When he seizes personal property for such purposes, he shall keep the same at the expense of the owner until sale is made, and shall give notice of the time and place of sale of same by posting a written notice at the city hall door and one at the court house in the city of Dallas, at least ten days before day of sale. He shall sell the same to the highest bidder for cash for all taxes, interest, cost, and expenses in caring for said property, and shall make an entry in the book of sales of the amount realized.

Sec. 147. Before sales of real estate are made notice of the time and place of sale, together with as near as may be, a description of the property, shall be given, by posting two notices, one at the court house and the other at the city hall in the city of Dallas; also by publication in some

newspaper of the city, for at least three weeks, which shall contain a statement of the amount due on each particular piece of ground.

Sec. 148. And finally, the city council shall have full power to do, or cause to be done, everything whatsoever necessary to enforce a prompt assessment and collection of all taxes and assessments provided for in this charter, and to make all regulations necessary for the sale of property for said taxes and assessments.

Sec. 149. The collector shall, where any real estate has been sold for taxes, make and execute a deed to the purchaser of the property sold, which deed shall be prima facie evidence of the following facts:

First. That the lot or lots or property conveyed was or were subject to taxation and assessment at the time of such sale, and at the time taxes thereon were levied and assessed, and that such taxes were regularly levied and assessed in all respects according to law.

Second. That such taxes were not paid in whole or in part at any time before such sale, and that a lien existed on the property conveyed in such deed for such taxes.

Third. That the real estate therein conveyed was advertised according to law.

Fourth. That the property conveyed was regularly and lawfully sold for taxes which were delinquent at the time of the advertisement and sale.

Fifth. When such property shall have been sold to the city of Dallas, or any other purchaser, at such sale, either for general or special taxes, the title acquired by the city, or such purchaser, shall not be disputed by any person whomsoever, or for any cause whatever, except upon tender to said city, or purchaser, of the taxes lawfully due on such property for which such sale was made, together with lawful interest thereon and all accrued penalties and costs, as provided by the city charter of the city of Dallas.

Sec. 150. A sale of personal property for delinquent taxes shall convey with it an absolute title, and the owner shall have no right to redeem the same.

Sec. 151. The city shall have the right to become a purchaser of property at tax sales, and the mayor shall attend such sale for such purpose.

Sec. 152. Whenever any real property is bid off to the city, or to any individual, for delinquent taxes, the owner or attorney, or his agent, may redeem the same at any time within two years from day of sale by paying the following amounts: All taxes paid or due, ten per cent per annum interest thereon from the time they became delinquent, and two and one-half (\$2.50) dollars as cost on each piece of property sold, and, as a further penalty, a sum equal to twenty-five per cent of the amount of the delinquent tax, if redeemed in three months; fifty per cent penalty if redeemed in six months; seventy-five per cent penalty if redeemed in one year, and 100 per cent if redeemed thereafter within two years, the said penalties to go to the purchasers at tax sales, whether the purchaser be the city or an individual.

Sec. 153. If any real property sold for taxes under the provisions of this act shall not be redeemed within two years from the day of sale, the holder of the tax deed shall have the right to bring suit in the district

court of the county of Dallas to have the absolute title to such real estate, without any equity of redemption, vested in him.

Sec. 154. All levies of *ad valorem taxes* heretofore made by the city of Dallas, and all assessments heretofore made, and *assessment rolls* heretofore placed in the hands of the city collector for collection are hereby validated, and the same shall be legal and binding regardless of any irregularity that may exist in the manner of making such levies, and the making and returning of such assessment rolls. This provision shall apply to all suits and actions now pending, as well as those hereafter prosecuted.

Sec. 155. In any suit by the city of Dallas for the collection of any delinquent tax where it shall appear that the description of any property in the city assessment rolls shall be insufficient to identify such property, the city shall have the right to set up in its pleading a good description of the property intended to be assessed, and to prove the same, and to have its judgment foreclosing its tax lien upon the same, and personal judgment against the owner thereof for such taxes, the same as if such property were fully described upon the assessment rolls.

Sec. 156. When the owner of any property, or his agent, shall render any property to the city assessor for assessment, and such property is assessed in accordance with the description furnished by such owner, or his agent, the sufficiency of such description shall not be disputed by such owner in any action or suit for the collection of such taxes, but the same shall be binding on such owner, and shall be sufficient for all purposes of such assessment.

Sec. 157. The provisions herein for collecting taxes shall not be construed to prevent the city from filing a suit in any court of competent jurisdiction for the collections of any taxes due on real estate, as well as personal property, and for the enforcement of levies for such taxes; and the assessment roll shall be *prima facie* evidence of the facts stated in said roll, and that all taxes assessed on such roll have been regularly levied and assessed in accordance with the provisions of this charter and of the law; and no irregularity in the manner of levying or assessing taxes shall invalidate the same, unless it appears from affirmative proof that such irregularity operated injuriously to the tax payer attempting to avoid the payment of such tax.

Street Improvement.

Sec. 158. The city council shall have full power and authority to grade, fill, raise, repair, macadamize, re-macadamize, pave, re-pave, or otherwise improve any avenue, street or alley, or any portion thereof in the city, to such extent and out of such material and under such regulations as said city council may provide, whenever a majority of the aldermen present vote in favor of such improvement.

Sidewalks.

Sec. 159. The city council shall fix and determine the nature and extent of sidewalk improvements, and decide as to the kind of material to be used. The cost of constructing all sidewalks, including curbing and guttering and the keeping the same in repair, together with the cost of

collection, but not including the grading, shall be defrayed entirely by the property owners of the lots or blocks fronting on the sidewalks to be constructed, according to the number of feet frontage owned by each. Whenever the city council, by resolution or otherwise, orders the construction of any sidewalk, it shall specify the kind of sidewalk required to be constructed and the width of same to be so constructed, and thereupon the city engineer shall issue a notice which shall be served upon the owner of such property if in the city, or if such owner shall be out of the city such notice shall be published in some newspaper published in the city of Dallas five consecutive days. Such notice shall state the place where such sidewalk is required to be constructed, the kind of sidewalk required to be constructed, and the width thereof, and the length of time, which shall not be more than thirty days from the date of the service of such notice, within which such sidewalk is required to be constructed, and that such property owner must proceed to construct the same or appear before the city council at a regular meeting thereof, giving the date of such meeting, and show cause why the same should not be constructed; and if such property owner shall not construct the same within the time required by the city council in the order or resolution of the city council requiring the same to be constructed, or shall not be excused from constructing the same by the city council, the city council shall advertise for bids for the construction of such sidewalk and shall let a contract therefor to the lowest responsible bidder, in the discretion of the council; such contract may be for any length or amount of sidewalk. As soon as practicable after the letting of such contract the city engineer shall furnish the city council a statement showing the name of the owners of the property abutting on the sidewalks so constructed, if known, if not known, shall so state, and a description of the property owned by such owners and the cost of the sidewalk immediately in front of the property so improved, and such cost shall be levied and assessed by the city council by ordinance against the property according to such statement by the city engineer, and said tax shall be a lien against such property from the date of the letting of such contract. Such ordinance shall state the amount of such tax against such respective lots or subdivisions of land and the time when the same shall become due and delinquent; and if the same shall not be paid when due, the city collector shall proceed, as soon as practicable, to advertise and sell such property for the payment of such taxes, provided in cases of sale of such property for ad valorem taxes; provided, that it shall not be necessary that such sale shall take place at the same time as sales of property for ad valorem taxes.

Sewers.

Sec. 160. The city council shall have power, by ordinance, to provide for and cause a general sewer and drainage system to be divided into public and private sewers and drains, and to be constructed, maintained and regulated in such manner and out of such material as the council may prescribe. Sewers may be established as the council may direct, and there may be extension of branches of sewers already constructed or entirely new throughout, as may be deemed expedient. The city council may, if necessary, levy a tax on all taxable property in the entire city, to

pay for the construction and repairs of such public sewers, which shall be called a "special sewer tax," and used solely for such purpose. No public sewer shall be run diagonally through private property when it is practicable, without injury to said sewer, to construct it parallel with one of the exterior lines of such property. No public sewer shall be constructed through private property when it is practicable to construct it along or through a street or public highway.

Sec. 161. The city council [shall] have the power to appropriate private property for public purposes. Whenever the city council of said city shall deem it necessary to take any private property, either within or without the city limits, for any of the following purposes, to wit: In order to open, extend, change or widen any public street, avenue or alley, or for the construction of water mains or sewers, either within or without the city limits, or for the improvement and enlargement of its water works, including riparian rights, water sheds, reservoirs, etc., public schools, parks, squares, and pleasure grounds, public wharves and landing places for steamers and other crafts, or for the straightening or improving the channel of any stream, branch or drain, such property may be taken for such purposes by making just compensation to the owner thereof. If the amount of such compensation shall not be agreed upon it shall be the duty of the city council to cause to be stated in writing the real estate or property sought to be taken, the name of the owner thereof, and his residence, if known, and the purpose for which said property is sought to be taken, and file such statement with the county judge of Dallas county. Upon the filing of such statement, it shall be the duty of such judge, in term time or vacation, to appoint three disinterested freeholders and qualified voters of the county of Dallas as special commissioners to assess the damages to accrue to the owner by reason of such condemnation. The commissioners so appointed shall, in their proceedings, be governed and controlled by the State laws in force in reference to the condemnation of the right of way for railroad companies, and the assessment of damages therefor, the city of Dallas occupying the position of the railroad company. And all laws in reference to the applications for the condemnation of right of way of railroad companies, including the measure of damages, the right of appeal and the like, shall apply to an application by the city of Dallas, under this charter, for condemnation of property for the aforesaid purposes, the city of Dallas to occupy the position of the railroad company. In estimating the damages to such property the jury shall not only estimate the value of the land so taken, but they shall also estimate the damage done to the remainder of any land from which it is taken, by reason of such taking and use.

Sec. 162. Provided, however, that in case of the condemnation of land for the opening, extending, or widening of any street, or for straightening or improving the channel of any stream, branch or drain within the corporate limits of said city, the council may, by ordinance, provide that the cost of such property shall be paid for by the property owners owning property in the immediate vicinity thereof and benefited thereby. In such cases the city engineer shall, under the direction of the board of commissioners appointed, make a plat of the property, which, in the judgment of said commissioners, will be specially benefited and enhanced in value by the making of such improvement, whereupon such commissioners shall issue notices to the owners of such property to ap-

pear before them at a time and place to be designated in such notices, to show cause, if any they have, why such property should not be assessed to pay the cost of the property so condemned; such notices may be served by any police officer in the city of Dallas, or any other officer of the State of Texas or county of Dallas authorized by the laws of said State to serve process of the courts of said State; such notices shall be served upon the owners of such property where such owners shall be found in the city or county of Dallas; and in all cases where such owner or owners, or any of them, are absent from said city and county, upon the agent of such absent owner, if such owner shall have an agent in said city or county, and, in case such absent owner shall not have such agent, or in case the owner of such property is unknown, then such notice shall be published for two days consecutively in some daily newspaper published in the city of Dallas; such notice shall be given five full days before the final determination by the board of commissioners of the amount of assessment against the owner of such property for such improvement; said commissioners shall determine the value of the property desired to be taken, belonging to the different owners thereof, if there be more than one such owner, and if there be only one such owner, the value of the same, and shall also find how much of the cost thereof shall be assessed against the owner of each lot or subdivision of the land in the immediate vicinity thereof specially benefited and enhanced in value by the making of such improvement, and shall report all said matters to the city council of the city of Dallas, showing a description of the property taken and condemned, and the name of the owner thereof, if known, and if the owner of any such property is unknown, shall state said fact, or if there be more than one owner of such property, then the description of the property of each said owner, if known, and if unknown, shall state such fact, and the value of the property of each such owner, so condemned, and also the description and name of the owner of each subdivision of property, if known, and if unknown, shall so state, describing such property so as to identify it, against which special assessment should, in the judgment of said board, be made to pay for such property condemned, such apportionment to be made according to the benefits that will in the judgment of said board of commissioners be received by or accrue to such lot or subdivision of property by reason of the making of such improvements. Such report shall be signed by said board of commissioners, or majority of them, and shall be filed with the city secretary for the consideration of the city council. The city council shall, as soon as practicable after the filing of such report, consider the same, and if the same is approved by a majority vote of the members present at the meeting at which it considers the same, the same shall be final and binding upon the city and all parties at interest therein. If the city council shall approve said report, it shall levy a special tax against the property shown by said report to be benefited and enhanced in value by such improvement, according to the recommendation made in such report; such taxes shall be a lien on the property against which the same shall be assessed, from the date of such levy; shall become due and delinquent at the times provided in the ordinance levying the same, and if not paid as provided in such ordinance, the city collector shall proceed to collect the same as provided in the ordinance levying the same, by the advertisement and sale as provided in the city charter in cases of the sale of

such property for delinquent ad valorem taxes; provided, that it shall not be necessary to make such sales at the same time as provided for in the sale of property for delinquent ad valorem taxes. The board of commissioners appointed under the provisions of this section shall have the same power to issue writs and subpoenas and compel the attendance of witnesses, etc., as commissioners appointed for the condemnation of land, etc., for the right of way for railroads, under the general laws of the State of Texas, have, shall receive the same compensation for their services, and shall be governed in all respects not herein otherwise provided, by said general laws in all matters relating to their procedure. The compensation for the land and property taken or damaged under the provisions of this section shall be paid to the owner of such property so taken or damaged, or secured by a deposit set apart in money in the hands of the city treasurer, subject to the order of such owner, before such property is taken or damaged; provided, the city may make such payments out of the general fund, if the council shall deem it advisable, and when the amounts assessed against the property specially benefited as herein provided are collected, may repay to said general fund the amount so advanced, and such payment shall not be a waiver of the city's right to make such collection.

Sec. 163. The city council shall have power to require the filling up, draining and regulating of any lot or lots, grounds or yards, or other places in the city which shall be unwholesome, or have stagnant water or filth of any kind therein, or growing of wild weeds, or from any other cause be in such a condition as is liable to produce disease or increase the danger to property from fire; also, to cause all premises to be inspected and cleansed; also require the making, filling up, altering and repairing of all sinks and privies, and direct the mode and material for constructing them in the future. And said council shall have full power by ordinance to provide for the punishment of all persons failing or refusing to do any of such things, or permitting the premises occupied by them to be in a filthy and unhealthful state. When the city council shall determine that any lot, premises or subdivision of land is in such condition as to render it unhealthful or productive of disease, or liable to cause or spread fire, it shall instruct the city engineer to notify the owner thereof, by written notice, to make such improvements, repairs, or alterations, or do such cleaning as the council may deem necessary and order to be made or done in order to abate such nuisance and render such property cleanly and healthful, and the city engineer or his assistant shall, when such owner is known to him, and resides in the city of Dallas, and shall not be absent from the city, serve such notice upon such owner; such notice shall state the property to be cleansed or improved, and what work or improvement is required to be done upon the same. Where the owner of such property is unknown to the city engineer, and where such owner, if known, shall be absent from the city of Dallas, or can not be found after reasonable search, such notice shall be published in some daily newspaper published in the city of Dallas, for two consecutive days, and if the owner of such property shall not, within fifteen days after the service or publication of such notice, perform the requirements of the city council, the council may have such improvements made at the cost of the city, and tax the cost of the same up against the property so improved as a special tax. Such improvements may be made in any manner pro-

vided for by the city council. When such work is completed, the city engineer shall report in writing to the council the cost of such work and improvements, a description of such property upon which the same was made, so as to identify it, the name of the owner of such property where known to him, and where unknown shall so state. When the city council shall approve such report or adopt the same, it shall by ordinance levy and assess a special tax against the property upon which said improvement is made, and said tax shall be a lien against such property from the date of the making of such improvement. Said tax shall become due and delinquent as provided for in the ordinance levying the same, and if the same shall not be paid within the time provided in such ordinance, the city collector shall proceed to collect the same by the advertisement and sale of such property as provided in the city charter for the sale of real estate for the payment of delinquent ad valorem taxes; provided, it shall not be necessary to sell the same at the same time as provided in such cases.

Sec. 164. That the city council shall have full power and authority to pass all ordinances and adopt all resolutions, rules and police regulations that may be necessary and proper to carry into effect and fully enforce all powers vested by this act and in addition the city council shall also have power, upon all questions not provided for in this act, to pass all ordinances, and to adopt all resolutions, rules and police regulations not contrary to the Constitution of the State of Texas that may be necessary for the trade, commerce, health, order and good government of said city, and to enforce all such ordinances, rules and regulations, and punish their violation by fines and imprisonment, both or either, or by work on the streets or other public works, as may be required by the judgment of the court, and for any fine imposed by the city court execution may issue to collect such fine and costs in the same manner as from State courts. They shall be issued to the chief of police, who, in levying on property and selling the same, shall have full power as the sheriff in executions issued from the State courts in like cases.

Public Schools.

Sec. 165. That the city public schools shall be under the management and control of a board of education composed of a president and six members, who shall be elected at the general election of the city to be held on the first Tuesday in April, 1897, and shall qualify within thirty days thereafter, and shall hold their offices for two years, and until their successors are elected and qualified, and shall serve without compensation; provided, that the terms of office of all the present board of school directors of the city of Dallas shall expire in April, 1897, when the board of education herein provided for shall have been elected and qualified.

Any vacancy on said board shall be filled in conformity with the provisions of this charter. Said board of education shall have exclusive control of the public schools of the city of Dallas, and shall have full and ample power to provide necessary school buildings and facilities, and to open and conduct a sufficient number of schools to meet the wants of the scholastic population of the city of Dallas, so far as they can do so by prudent and judicious application of the means made subject to their administration and management.

Among the powers thereby conferred on said board of education the following are, for greater certainty, enumerated: To contract for, lease and purchase lots, and to construct buildings for school purposes, and to make all needed repairs and alterations in the same; to furnish said school buildings with all appropriate furniture, fixtures and apparatus; to lay off the city into such school districts as in the judgment of the said board shall be proper; to increase or diminish said districts, and to change the boundaries thereof at pleasure; to employ superintendents, teachers and such other persons as may be necessary, and to fix their compensation and prescribe their duties and establish all regulations and rules deemed necessary by the board to provide and maintain an efficient system of public schools in the city of Dallas. Said board of education shall annually on the third Monday in April file with the mayor and city council an official statement of the amount of money, as nearly as can be estimated by said board, which will be needed to pay the cost of maintaining the public schools for the next succeeding fiscal year, exclusive of money, if any, derivable from the State or any other source. The city council, when levying the annual tax for the fiscal year, shall levy an ad valorem tax sufficient to defray the expenses of the city public schools, provided that the levy made for defraying said expenses shall not in any one year exceed one-fourth of one per centum of the taxable values of the city of Dallas for that fiscal year. Said tax, when collected, shall be deposited with the city treasurer by the city collector to the credit of the school fund, which said sums, together with all sums received from the State, county and other school funds, shall be held by the city treasurer subject to the order and disbursement of the board of education, and shall be paid out upon warrants issued by order of said board, and audited by the city auditor and signed by the mayor and attested by the city secretary. An official statement or copy of all contracts, claims, accounts, pay rolls and demands of whatever nature whereby any money is to be disbursed or expended from the school funds, shall be filed with the city auditor, who shall examine, adjust and audit all claims, accounts, pay rolls and demands before same shall be paid. The mayor and city council shall have the right to at any time demand of and receive from said board of education an account of all sums received, disbursed and expended by them for school purposes, accompanied by vouchers, data and information deemed necessary to enable the city council to ascertain the cost, necessities and expense of said public schools.

Sec. 166. The president of the board of education shall be elected and hold his office as hereinbefore provided. He shall preside over all meetings of the board of education, and in case of a tie on any question, he shall give the casting vote, but in elections he shall vote as other members of the board. He shall be active in enforcing the laws, rules and regulations governing said board. He shall, from time to time, give the board information about the condition of affairs, and recommend for consideration such measures as he deems best for the schools. At the first regular meeting of the board of education after the general election, or as soon thereafter as practicable, the president shall appoint the standing committees of the board, and the president shall be ex officio a member of all committees of the board. He shall have the power to veto any resolution, by-law, motion or order passed by the board of education, by filing his written objections within three days after the passage thereof,

Sundays and day of passage to be excluded. At the next meeting, or as soon thereafter as practicable, the board shall consider such objections, and unless the board pass the measure over his veto by a two-thirds vote of all the members, taken by yeas and nays, such measure shall be of no effect. Regular meetings of the board shall be at such times as the board may fix by resolution or otherwise, but the president, on his own motion, may call special meetings by written notice thereof served upon each member, or left at his place of abode or usual place of business. At the first meeting of each new board, or as soon thereafter as practicable, the board shall elect one of the members vice president, who shall hold his office for two years. In case of absence, failure, inability or refusal of the president to act, the vice president shall perform the duties of president. In the absence of the president and vice president, any one of the members present may be appointed to preside.

Miscellaneous.

Sec. 167. All city offices shall be kept in the city hall, and shall be open such hours as may be prescribed by ordinance.

Sec. 168. All bonds, contracts, or other instruments requiring the assent of the city, shall be signed by the mayor, or the acting mayor, and all legal process against the city shall be served upon the mayor, or acting mayor.

Sec. 169. In addition to other modes of collection anywhere in this act provided, all taxes due the city, whether general or special, assessments for improvements or otherwise, may be collected by an action of debt, and liens on real estate foreclosed in any court having jurisdiction. The assessment rolls of such taxes shall be taken as prima facie evidence of the statements made therein, and the city shall have equal right to become the purchaser at all sales of property for taxes due it, under judgment or otherwise. It shall be the duty of the mayor to attend such sales to make such purchases if they be necessary.

Sec. 170. Before the city of Dallas shall be liable for damages of any kind, the person injured, or some one in his behalf, shall give the mayor or city council notice in writing of such injury, within ninety days after the same has been received, stating in such notice when, where and how the injury occurred, and the extent thereof.

Sec. 171. It shall not be necessary in any action, suit, or proceeding in which the city of Dallas is a party, for any bond, undertaking or security to be executed in behalf of said city, but all such actions, suits, appeals, or proceedings shall be conducted in the same manner as if such bond, undertaking or security had been given, and said city shall be just as liable as if they had been duly given and executed.

Sec. 172. The property, real and personal, belonging to said city shall not be liable to be sold or appropriated under any writ of execution or cost bill, nor shall the funds belonging to said city in the hands of any person be liable to garnishment, nor shall the city be liable to garnishment on account of any debt it may owe, or funds it may have on hand due any person, nor shall the city or any of its officers or agents be required to answer to any writ of garnishment on any account whatsoever.

Sec. 173. Whenever, in the opinion of the city council, any buildings, fence, shed, awning or structure of any kind or part thereof, is liable to

fall down and endanger persons or property, the council may order the owner or agent of same, or occupant of the premises, to take down and remove the same within such time as they may direct, and may punish by fine and imprisonment, or either, all persons failing so to do. Said council shall have the additional power to remove the same at the expense of the city on account of the owner of the property, and assess the expenses thereof, including condemnation proceedings, as a special tax against the land, and the same may be collected as other special taxes provided for in this charter, or by suit in any court of competent jurisdiction.

Sec. 174. The city council shall have full power to condemn all dangerous buildings or obstructions of any kind, and may provide regulations therefor by ordinance.

Sec. 175. In all judicial proceedings it shall be sufficient to plead any ordinance by caption, or by the number of the sections thereof wanted and the caption, and it shall not be necessary to plead the entire ordinance or section. All printed ordinances or codes of ordinances published by authority of the city council shall be admitted in evidence and shall have the same force and effect as would the original ordinances.

Sec. 176. All writs, subpoenas, or other process, issuing out of the city court, shall run in the name of the city of Dallas, and may be executed and served by the chief of police or his deputies, or policemen anywhere in Dallas county, Texas.

Sec. 177. In all cases where, by any of the provisions of this act, or by ordinances in pursuance thereof, a person is required to obtain a license for any calling, occupation, business or avocation, and has, on complaint before the city court, been adjudged guilty of violating any rule, regulation or ordinance of the city in relation thereto, said court, in addition to the punishment to be imposed therefor, may suspend or revoke the license so granted.

Sec. 178. The city council shall have power to cause the ordinances of the city to be printed in code form, and have the same rearranged and digested as often as to the council may seem advisable.

Sec. 179. The city council shall have power to cause telegraph, telephone, and electric light companies to change the location of their poles; also, to cause all erected poles not in use to be taken down and removed. If such companies shall fail to do such things after being notified, the city can have the same done at the expense of such companies. The city council shall also have the power to require telegraph, telephone companies, and electric light companies to run their wires under ground, if, in the wisdom of the council, public interest should so demand.

Sec. 180. The style of all ordinances shall be, "Be it ordained by the city council of the city of Dallas," but the same may be omitted from ordinances published in book or pamphlet form.

Sec. 181. All ordinances of a general nature shall be published at least once in some newspaper in the city of Dallas.

Sec. 182. All ordinances shall take effect from their passage, unless otherwise therein expressed.

Sec. 183. All ordinances of the city, when printed and published by authority of the city council, shall be admitted and received in evidence in all courts and places without any further proof whatever, and all ordinances thus printed in book or pamphlet form shall be presumed to have been printed by authority of the city council, and shall be *prima*

facie evidence of that fact. Certified copies of ordinances shall also be received in evidence.

Sec. 184. All ordinances, resolutions, rules and regulations now in force in the city of Dallas and not in conflict herewith shall remain in force under this act until altered, amended, or repealed by the city council, after this act takes effect.

Sec. 185. That every ordinance passed by the city council shall be enrolled by the secretary within the next succeeding five days, Sundays excepted, or as soon thereafter as practicable. It shall then be carefully compared with the original bill and all amendments, if any, by at least one member of the committee that may be charged with that duty by the city council. If errors exist they shall be corrected. If no errors exist, or if found, then after their correction, the member making the comparison shall endorse on the margin, the words, "Correctly enrolled," and give the date thereof and subscribe his name thereto. Whereupon the same shall be delivered to the mayor for his consideration. If the mayor approve the same, it shall become a law. If he fail to approve or object within ten days, exclusive of the day of presentation and Sunday, should that intervene, the same shall become a law without his signature. But if, within said time, he shall veto the same, he shall present his written objections to the council by filing the same with the city secretary, and unless the council pass the ordinance over the mayor's veto by the majority hereinbefore provided, the same shall not become a law.

Sec. 186. The city council shall have the right to remit, in whole or in part, any fine or penalty belonging to the city, which may be imposed under any ordinance or resolution passed in pursuance of this act.

Sec. 187. No lien of any kind can ever exist against the public school buildings, public halls or public works of the city of Dallas. All sub-contractors, material men, mechanics and laborers upon any public works of the city of Dallas are hereby required to notify the city of all claims they may have on account of such work against the city, and when such notice has been given the city shall retain an amount from any funds due the contractors sufficient to satisfy all claims; provided, that such notice may be given at any time after such indebtedness becomes due and before final settlement; and provided, further, that no contractor or sub-contractor shall issue any time checks on any public works of said city.

Sec. 188. The council shall require good and sufficient bonds of all contractors, with at least two good and sufficient sureties, who shall be residents of the State of Texas. No non-resident of the State shall ever be received as surety on any bond payable to the city of Dallas, except such guarantee companies as may be satisfactory to the city council. When bondsmen are not residents of Dallas county such proof of their solvency may be required as the council may deem necessary.

Sec. 189. All appropriations made or set apart for the payment of any interest or sinking fund, or both, shall under no circumstances ever be diverted to any other purpose.

Sec. 190. All questions arising in administering said city government, and not provided for in this act, shall be governed by the State law in such cases made and provided.

Sec. 191. All property, real and personal, belonging to the city of Dal-

las, is hereby vested in the corporation created by this act, and the officers of said corporation now in office shall continue the same until superseded in conformity to the provisions hereof, but shall be governed by this act from and after it takes effect.

Sec. 192. This act shall not invalidate any legal action heretofore done by the city council of the city of Dallas, or any of its officers, or impair any liability which may have been created by said corporation prior to the passage of this act.

Sec. 193. No office provided for in this act and not now already existing shall be held to be created until the same is established by an ordinance of the city council.

Sec. 194. That this act shall be deemed a public act, and judicial notice shall be taken thereof in all courts and places, without the same having been read in evidence.

Sec. 195. The city council shall have the power to prohibit the working of State convicts within the corporate limits of the city.

Sec. 196. To define, locate and regulate variety theatres.

Sec. 197. To provide for the control and education of unprotected children, and enforce their attendance at such institutions as may be provided for them by the city.

Sec. 198. The city council shall have power to prohibit minors from going and being on the public streets and in public places in the city of Dallas between the hours of 9 o'clock p. m. and 4 o'clock a. m., at night, without the consent of their parents or guardians.

Sec. 199. That an act entitled "An act to incorporate the city of Dallas, and to grant a new charter to said city," approved March 13th, 1889, [and] all other acts relative to the incorporation of the city of Dallas, so far as the same conflict with this act, be and the same are hereby repealed; but all property, actions, rights of actions, claims and demands of every nature and kind whatever, vested in the city under and by virtue of said laws hereby repealed, shall vest in and remain and inure to the said corporation under this act as fully and completely in all respects as if the said laws had not been repealed.

Sec. 200. Whereas, the people of Dallas are demanding that they have the benefits and reforms embodied in this bill, and that the same be put into operation at once, and that the coming city election be held under the terms of this bill; and, whereas, the fact that said election will occur on the 6th day of April, 1897, creates a necessity for immediate action by the Legislature, therefore an emergency and imperative public necessity exist requiring the constitutional rule requiring bills to be read on three separate days be suspended, and said rule is so suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act passed the Senate by a vote of yeas 14, nays 7; and having passed the House with amendments, adding the emergency clause, by a two-thirds vote, yeas 98, nays none, the Senate concurred by a two-thirds vote, yeas 24, nays none.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Saturday, the twentieth day of March, A. D. 1897, but was not signed by him nor returned to the house in which it

originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

S. B. No. 306.]

CHAPTER 7.

An Act to provide a charter for the City of Houston, Harris County, Texas.

Section 1. Be it enacted by the Legislature of the State of Texas: That all the inhabitants of the city of Houston, Harris county, Texas, shall be a body corporate, to be known hereafter by the name of "The City of Houston," and by that name it shall hereafter be known in law, and shall be capable of suing and being sued, and of defending in all courts in all matters whatsoever; and may have a common seal and may alter and change the same at pleasure; may own, hold and convey any estate, real or personal, for the use of said corporation for any purpose whatsoever, both within the limits of said city and without the limits of the same, in Harris county, Texas.

Sec. 2. That the bounds and limits of said corporation shall be three miles square, to be run with the cardinal points of the compass, of which the center of the court house square in the city of Houston shall be the center; provided, that should any property lying beyond the city limits be platted into blocks and lots after the passage of this act, then, and in that event, the owners of said property shall lay the same off to conform to the streets and blocks abutting on the same, and shall file with the city engineer a correct map of the same; and provided further, that in no case shall the city of Houston be required to pay for any of the said streets, at whatever date opened, but when opened by reason of the platting of the property, at whatever date platted, shall become, by such act, the property of the city of Houston, for use as public highways, and shall be cared for as such. Any territory adjoining the present or future boundaries of said city, may from time to time be admitted and become a part thereof, upon application and written consent given to the city council by the owner or owners of said land; or, as the case may be, by a majority vote of the legal voters resident on the land sought to be added. In all such cases the territory so added shall be described by metes and bounds in an ordinance accepting, assenting and adding the same to the municipal corporation.

Sec. 3. That the administration of the business affairs of the said corporation shall be conducted by a mayor and board of aldermen, to be elected by the qualified voters of the city at large, and to be designated as the city council, who shall hold their respective offices for two years from the next city election; and the said city council may divide the city into a convenient number of wards, not more than twelve, and shall define and establish boundaries thereof, and may change the said boundaries from time to time, as may be deemed expedient, having regard for the number of inhabitants, so that each ward shall contain, as nearly as may be, the same number of qualified electors. And the before mentioned board of aldermen shall consist of two aldermen selected from the qualified voters of each ward; provided that the number of alder-

men shall not exceed twelve; and provided, further, that the city council may, by ordinance, provide, in the event of said city being divided into twelve wards, that said board of aldermen shall consist of one alderman selected from the qualified voters of each ward, who shall hold office for two years, and until their successors are elected and qualified; no person being competent to fill the office of mayor or alderman, unless at the date of his election and for sixty days next preceding, he be a qualified voter of the city, and for two years prior to such election a bona fide resident of his ward, and an owner of real property in said ward. Should any alderman remove from his ward during the term for which he was elected, die, become insane, or for any other reason become disqualified to discharge the duties of his office, then his office shall become vacant, and the city council shall, by ballot, elect a proper and duly qualified person, by majority vote of all the aldermen elected and qualified, to fill such vacancy.

Sec. 4. All qualified electors of the State, who shall have resided for six months next preceding any election for city officials, within the limits of said city, shall have the right to vote for mayor and all other elective officers of said city; provided in all elections to determine the expenditure of money or assumption of debt, only those shall be qualified to vote who own real estate within the limits of said city.

Sec. 5. That in each ward of the city shall be established, and arranged by districts, one polling place for each one thousand voters or fraction thereof over 250, voting within the limits of said ward at the last municipal election; and where two or more polling places are established, they shall be so located as to be most convenient to the greatest number of voters, with a distinct set of election officers, ballot boxes and registration books for each polling place, which polling places may all be located in the same building; provided, the voter shall vote in the district of his residence; and in no event shall any person be eligible for election to any office at any city election, unless he be a bona fide owner of real estate located within the city. That the general election of officers of the city shall take place on the first Monday in April, 1898, and every two years thereafter, and the present incumbents hold over until their successors shall qualify. No election of city officers shall be held on the day of State or county elections. That the city council shall make all necessary regulations concerning elections, and provide for the examination and counting of returns of elections, and the issuance of proper certificates to the successful candidates.

Sec. 6. That there shall be elected by the qualified voters of the city a mayor, two aldermen from among the qualified voters of each ward, a city treasurer, an assessor and collector of taxes, a city marshal, a city attorney, a city recorder and a health officer, and a street commissioner, who shall hold their respective offices for two years, and until their successors are elected and qualified, unless sooner removed by the city council; provided, that the present officers of said city shall hold their offices until the next election of city officers, which shall be held on the first Monday in April, 1898.

Sec. 7. The mayor shall, not later than the second meeting of the city council after the next city election, nominate to the council candidates for city secretary, city engineer, chief of fire department, market master, and city scavenger, and at the expiration of the term of the present in-

cumbent, shall nominate a candidate for superintendent of schools, who shall all be confirmed by the city council; and the officers confirmed by the council shall hold their respective offices for two years, and until their successors are confirmed and qualified, and shall perform such duties as may be prescribed by the city council.

Sec. 8. The mayor, with six citizens of the city of Houston, three of whom shall be appointed each year by the mayor and confirmed by the council, shall constitute the board of public school trustees of said city, and such board of public school trustees shall have exclusive charge and control of the public schools of the city, under the laws of the State governing the free public schools of independent school districts.

Sec. 9. There shall be appointed by the mayor and confirmed by the city council, three citizens of the city, who shall constitute a board of public works. They shall hold their offices for two years and until their successors are appointed, and shall serve gratuitously. They shall be allowed, however, five hundred dollars annually, or so much thereof as may be necessary, to cover any expense incurred in the performance of their duties. All matters pertaining to public improvements involving an outlay of as much as five hundred dollars, shall be referred to said board before they are finally approved by the council; and they shall, within fifteen days thereafter, make their report thereon, with such recommendations as they may deem expedient. They shall examine and pass upon all plans and specifications relating to such improvements, and on all bids for the work embraced therein; provided, that the recommendation of the board of public works, as reported to the council, shall be final, unless altered or changed by a two-thirds vote of all the aldermen; and after the completion of any such work shall examine and report whether the same has been completed according to contract; and no plans or specifications for any such work shall be adopted, bids accepted, contracts awarded or work accepted for any such improvement until the report of said board in reference to said matters shall have been received by the council, or until after the expiration of fifteen days after the matter was referred to them. Said board may also originate and suggest public improvements, and prepare and recommend plans therefor, including all matters pertaining to their construction.

Sec. 10. The regular meeting of the city council shall be held in the council chamber as often as may be determined by the city council, not to exceed four meetings per month, beginning at such an hour as may be fixed by the said council; and the mayor, of his own motion, may call special meetings for the transaction of special business, by causing the city secretary to serve a written notice on each alderman or leaving the same at the residence or usual place of business of each. Any three members of the council may, in like manner, call special meetings of the council, but no special meeting shall be called except in cases [of] urgent necessity, and the notices served on the aldermen shall state the purpose for which the meeting is called. General business only shall be transacted at the regular meetings; but the council may adjourn from day to day until the business properly coming before it is disposed of.

A majority of the whole number of aldermen elected and qualified shall be required to constitute a quorum; but any four aldermen may convene and compel the attendance of members on any day of regular meeting, requiring the city marshal or any police officer to bring in the absent

members; and the council shall adopt proper rules and regulations for the government of its proceedings.

The council shall be the judge of the qualification and election of its members, including the mayor; may punish members or other persons for disorderly conduct during the sittings of the council, to the extent that it may fine and imprison by its ordinances and rules of order; and with the affirmative vote of two-thirds of the whole number of aldermen elected and qualified, may remove any officer of the city for any conduct or offense which, in the opinion of the council, shall render him unfit to hold his office; but no officer shall be removed until he shall have had the opportunity of being heard by himself or by counsel, or by both, and in the investigation of any complaint under this section, the council may subpoena and examine witnesses under the usual rules for taking testimony.

The meetings of the council shall be held with open doors, except when by a vote of two-thirds of the members present it may be deemed expedient, upon a special question, to deliberate with closed doors.

At the first meeting of the council after the newly elected members shall have qualified, after every election, a mayor pro tem. shall be selected by ballot from among the aldermen, who shall, in the absence or disability of the mayor, preside at meetings of the council, and who, in case of the absence or disability of the mayor, shall exercise all the functions of that office until the return of the mayor, or until such disability be removed.

In case of a vacancy in any elective office, from whatever reason, the council, upon nomination by the mayor, shall fill the vacancy by the selection of some person by a vote of a majority of the aldermen elected and qualified, except in the case of a vacancy in the office of mayor, from whatever cause, when the mayor pro tem. shall order an election by the people to be held within thirty days from the time when the vacancy occurred, to fill the same, and in the interval the mayor pro tem. shall act as mayor.

It shall be the duty of the city council, at its first meeting in February of each and every year, to appropriate such sums of money respectively, for each of the various departments of the city government as said city council shall deem necessary for the proper maintenance of the same during the current year. Such current year shall be deemed to begin on the first day of January previous to such meeting, and to end on the 31st day of December next thereafter. Said council, at said meeting, shall accordingly appropriate a certain sum of money for the use of each of the following departments of said city government, to-wit: public school department, police department, fire department, street and bridge department, public health department, salaries of officials not included in appropriations for the foregoing departments; public lights, water works, coupon-interest and sinking fund, and such other departments as it may be deemed proper to mention, together with an appropriation for the sum deemed necessary for a contingent fund, and to cover all miscellaneous expenses not mentioned under the head of any special department; and it shall be the duty of the city secretary to keep a separate account with each of such departments, and he shall be prepared at every regular meeting of the city council to give information as to the amount expended and the balance remaining to the credit of any department.

and no draft shall be drawn upon or paid by the city treasurer unless the same shows on its face to which of said departments the sum of money named in the same shall be charged; provided, that nothing herein contained shall prevent the issue of certificates of indebtedness against any one of the departments, should there at any time be no funds to its credit.

Sec. 11. The mayor, to be elected by the qualified voters of the city, shall hold his office for the term of two years and until his successor is elected and qualified, and no person shall be mayor unless he be duly qualified under the preceding sections of this act. He shall be ex officio chairman of each of the standing, and any special committees of the city council, and shall be, ex officio, the chief of police of the city, and shall be a conservator of the peace throughout the city. He shall have the power to appoint any number of policemen on special occasion, said policemen to serve only until the emergency shall be passed, in order to preserve the peace of the city. In case of necessity he shall have power to call out any military company in the city to aid in the suppression of any riot or public disturbance. He shall be vigilant in enforcing all laws and ordinances enacted for the government of the city, and he shall preside at all meetings of the council when present, and in case of a tie vote in the council, shall cast the deciding vote. The mayor shall by order issued by him through the city secretary, make all purchases for the use of the city.

The mayor shall have the power to veto any resolution, ordinance, motion or rule of order passed by the city council, in the following manner: He shall give his reason for objecting to any action of the council subject to veto not later than the meeting succeeding that at which such action may be had, which reasons, so submitted, shall be entered upon the minutes of the council, and unless the council shall, at a meeting not later than the one succeeding that at which the reasons for the veto shall be submitted, pass such resolution, ordinance, motion or rule of order over the veto by a vote of at least two-thirds of all the aldermen present, taken by ayes and nays and entered upon the minutes of the council, the resolution, ordinance, motion or rule of order so vetoed shall be inoperative. The mayor shall have and exercise such power and authority as may be conferred by the city council, not inconsistent with the general purposes and provisions of this charter, and shall have the power to administer oaths, and shall sign all contracts and approve all accounts for purchases after the finance committee shall have passed upon such accounts. In case of the disability or absence of the city recorder the mayor shall act in his stead.

It shall be the duty of the mayor, at the last meeting of the city council held in January of each and every year, to present to the city council a message containing a statement of the financial condition of the city, including an itemized estimate of the cost of maintaining the various departments of the city government for the ensuing year, and the sums of money which, in his opinion, should be appropriated for the maintenance of such respective departments, together with his recommendations in regard to such appropriation, and in regard to the percentage of taxation, and such other recommendations as in his judgment he may see fit to make.

Sec. 12 The city secretary shall attend the council at its meetings,

and keep in well bound books a correct journal of the proceedings of that body; he shall be the custodian of the laws and ordinances of the city and of all its valuable papers, records and archives, and also be the custodian of the common seal of the corporation, and shall affix the same to the lawful obligations of the city with his attestation and to certificates and other matters necessary of attestation emanating from his office, and may administer oaths in all matters pertaining to his office and city affairs. He shall keep the accounts of the city with accuracy, and in well bound books, showing at all times the outstanding indebtedness of the city of every description, the expenditures of each department separately, and sums due city, and shall for every obligation of the city, properly approved as provided in Section 11, issue against the city treasurer, a warrant for such sum as may be due; and he shall do and perform such other acts as he may be empowered by the city council to do; and all copies of the proceedings of the city council or of others of the papers composing the records of the city, when duly attested by the said city secretary, under seal of the city, shall be received as original testimony in all the courts of this State.

Sec. 13. The city treasurer shall have the custody of all moneys belonging to the city, and shall receive all moneys and revenues, coming into the city treasury, and pay the same out of properly issued warrants, and shall give ample and acceptable bond to cover all funds in his custody. He shall keep the moneys of the city on deposit in some bank in the city of Houston, and shall keep his accounts in well bound books, which books shall be open to the inspection of any citizen at any reasonable and proper time. He shall prepare and publish annually in some daily newspaper printed in the city of Houston an accurate and detailed statement and account of the receipts and disbursements of the revenues of the city, and the condition of the treasury, which statement shall be prepared and made up to the last day of December of each year, and published on or before the 15th day of January following; and should the said statement not be made in the manner and at the time provided above, the city treasurer shall be liable to a fine of five hundred dollars, to be recovered in the District Court of Harris county at the suit of the city attorney, for and in behalf of the city of Houston, and the sureties of the city treasurer on his official bond shall be liable for the amount of such fine. He shall also, be the treasurer of the school fund of the city, and shall receive such compensation for the discharge of the duties of city treasurer and treasurer of the school fund as the council may determine.

Sec. 14. That the city marshal shall be the chief police officer of the city, under the mayor. He shall, in person, or by some officer of the police force, attend all regular and special meetings of the council. He shall attend upon the recorder's court, and shall promptly execute and return all process issued from said court. He shall be active in quelling riots, disorders and disturbances of the peace within the limits of said city. He shall arrest all offenders against the ordinances of the city for offenses committed in his presence or upon the information or demand of any reliable persons, and shall have authority to take bail for their appearance before the recorder, and in default of giving which bail he shall commit them to the city prison for safe keeping until they can be brought before the recorder for trial, and shall receive a fee of one dollar

in every case of violation of city ordinance where there has been a conviction of the same and the defendant has paid his fine and costs, said fee to be paid out of the costs so collected, and also the salary allowed him by the city of Houston, and the commissions and fees for the impounding of stock found running in stock limits as prescribed by the ordinances of the city of Houston; and it shall be the duty of the city marshal and all members of the police force to file in the recorder's court all complaints against persons arrested by them for the commission of offenses of which the recorder's court and justices' courts have concurrent jurisdiction. He shall have the authority to appoint one deputy who shall be confirmed by the city council, for whose acts and conduct he shall be responsible, and such deputy shall have all the power and authority of the marshal. He shall perform such other duties, and shall be invested with such other powers, rights and authority as the city council may, by ordinance, confer, not inconsistent with the Constitution and laws of this State. He shall be, at all times, under the direction and control of the mayor and the city council, and may be by them suspended or removed from office for cause deemed by them adequate. He shall not absent himself from the city without first obtaining from the mayor or city council a leave of absence, which shall state the duration of his absence. He shall suggest to the mayor for confirmation by the city council two proper persons, one for day clerk and one for night clerk at the police station, who shall be empowered to issue warrants, when the recorder is not present, and in so doing shall administer the necessary oaths for the arrest of any person charged with crime; and the marshal shall also suggest to the mayor proper persons for members of the police force of the city of Houston, of which force he shall have direct control under the direction of the ordinances of the city of Houston.

Sec. 15. The city attorney shall attend all meetings of the council; bring, defend when necessary, and attend to, all civil suits to which the city is a party, and shall represent the city in person or by deputy appointed by him, in the recorder's court; shall draw all ordinances, and inspect and pass upon all documents involving the interests of the city when requested so to do by the mayor or city council, and shall be the legal adviser of all the officers of the city upon legal questions touching their official duties, and he shall perform such other legal duties as the council may prescribe; and the city attorney shall receive a fee of one dollar in every case for violation of city ordinances where there has been a conviction before the recorder in the same and the defendant has paid his fine and costs, said fee to be paid out of the costs so collected, and also the salary allowed him by the city of Houston.

Sec. 16. That the recorder of said city shall exercise such jurisdiction as may be prescribed by the city council, not inconsistent with the Constitution and laws of this State, and such as may be conferred by the general laws on mayors and recorders; but when any person has been tried before a justice of the peace for any offense committed in said city against a general law, such person shall not be tried again for the same offense before said recorder. The rules of procedure in courts of justices of the peace in criminal matters, shall govern the recorder's court in all matters in practice, and appeals may be taken from his decisions in like manner. In the absence of the recorder, or in case of his inability to

hold his court, the mayor of said city shall hold the same, and the acts and judgments of such mayor shall have the same force and effect as those of the recorder. The recorder shall have full power, authority and jurisdiction in all cases arising under the ordinances of said corporation, and over any breaches and violations thereof, and of any and all persons thus offending, and to try and determine all suits and actions and complaints charging a violation of any ordinance of the city, and may grant new trials on motions in writing showing sufficient cause, and duly sworn to. The recorder may require of any person arrested under the provisions of this act, a bond for his or her good behavior, and to keep the peace, with two good and sufficient sureties, which bond shall be payable to the city of Houston. He shall have full power and authority to issue subpoenas for witnesses and to compel their attendance by process of attachment. He may punish all contempts by fine and imprisonment, or either; may issue subpoenas, writs of *capias*, warrants of arrest, executions, and all other process known to the law which a justice of the peace of this State may lawfully issue, and all of said writs and process shall be issued, served and executed under the same form and in the same manner as the like process would be when issued by a justice of the peace, unless herein otherwise provided. He shall have full power and authority to administer official oaths and all other oaths or affirmations, and to give certificates thereof. The costs in cases for violation of ordinances of the city of Houston, where a conviction has been had, shall be two dollars, in addition to whatever fine may have been imposed, which cost of two dollars shall be divided as follows: One dollar to the city attorney, and one dollar to the city marshal; provided, however, that such costs are not to be paid to such above named officers unless the same have been paid by the person convicted, and where a portion only of the fine has been paid, the prisoner may be committed for the balance of fine and costs; and the recorder shall perform such other duties as may be prescribed by any ordinance of said corporation, that may properly and lawfully be required of said officer as the judge of said court, and are not inconsistent with the laws and Constitution of this State; provided, that all moneys collected from fines for violation of city ordinances imposed by the recorder, shall be paid into the city treasury for the use of the city, and that the payment of fine shall first be made, and then the costs. The proceedings before said court shall be commenced by filing a complaint specifying the charges made against the accused with reasonable certainty, which complaint shall be sworn to, and shall not be quashed for any formal defects, if it substantially sets forth the nature of the alleged violation. All writs and process in said recorder's court for violation of city ordinances, shall run in the name of the city of Houston, and in such cases all prosecutions must be conducted against the accused in the name of "The City of Houston," and after stating the nature of the accusation shall conclude "contrary to the ordinances of the city of Houston and against the peace and dignity of the same." But in the trial of any and all State cases before said recorder, and in the said recorder's court, in the said city of Houston, as above provided, the style of all writs and process shall be "The State of Texas," and all prosecutions shall be carried on in the name and by the authority of the State of Texas, and shall conclude, "against the peace and dignity of the State."

The recorder shall keep a complete and correct docket in a well bound book, of all the city and State cases brought before him, which docket must show the style of the case, the offense charged, and the judgment of the court, with the amount of the fine and costs, and such docket shall always be open for the inspection of the public.

The city council shall have the authority to determine at what time or times said recorder's court shall be open for business, and how long it shall continue in session each day, excluding Sundays and legal holidays. The recorder shall receive a salary to be fixed by the city council.

Sec. 17. The following are peace officers of the city of Houston: The marshal, deputy marshal, patrolmen, policemen, and every private citizen specially appointed by the mayor or city council of the city of Houston to execute criminal process. Whenever a peace officer of said city meets with any resistance in discharging any duty imposed upon him by law, he may summon a sufficient number of citizens of said city to overcome the resistance. A peace officer or any other person may, without warrant, arrest an offender when the offense is committed in his presence or within his view, if the offense is one classed as a felony or as an offense against the public peace, or against any of the ordinances of the city of Houston, or any person found in suspicious places or under circumstances which reasonably show that such persons have been guilty of some felony or breach of the peace, or threaten or are about to commit some offense against the laws either of the city or State. When it is shown by satisfactory proof to a peace officer, upon the representation of a credible person, that a felony has been committed and that the offender is about to escape, so that there is no time to procure a warrant, such person may, without warrant, pursue and arrest the person accused.

Sec. 18. That the assessor and collector shall assess and collect all licenses and taxes levied and imposed by the city council, and shall pay the same over to the treasurer weekly, on the Saturday of each week, taking duplicate receipts therefor, one of which he shall retain, and the other he shall return to the council, with his report in detail, showing the several amounts received and by whom paid; which report shall be made to the first meeting of the council in each month. He shall be governed by the rules and regulations hereinafter prescribed, in relation to the assessment and collection of licenses and taxes imposed by the city council, and shall do and perform such other acts and duties concerning the administration of his office as may be prescribed by the city council; and shall receive such compensation as the city council may fix.

Sec. 19. The street commissioner shall have the oversight of and shall personally supervise the work of the men employed for work on streets and bridges, and when he may deem expedient, shall make such suggestions to the mayor and the street and bridge committee as will facilitate the work of the street and bridge forces, but shall have no power to contract any indebtedness on the part of the city for material unless on the order of the mayor; and shall be under the control of the mayor, as to the work to be performed, and the manner of doing the same. He shall correctly keep the time of men and teams employed, and make report of the same, weekly, to the mayor, duly certified, and shall also, keep correct account of tools and material used in his work, and make monthly report at the first regular meeting in each month to the city council, showing the amount of work performed, the itemized cost

of same, and the tools and material on hand on the last day of each month, and the cost of labor and teams for said month. He shall be required to take the oath of office of his office as may be prescribed by the city council.

Sec. 20. The city engineer shall be a professional civil engineer. He shall, before entering upon the duties of his office, execute a bond payable to the city of Houston, with two or more good and sufficient sureties in the sum of five thousand dollars, to be approved by the city council, conditioned that said engineer shall faithfully, correctly and efficiently discharge the duties of his office during the term of his incumbency, and in case of injury to any person through error, incompetency, negligence or fraud on his part, that he shall pay the party injured thereby all damages resulting from such injury. He shall also take and subscribe to an oath of office before some competent authority, to well and truly, and to the best of his skill and ability, discharge and perform the duties of his office. It shall be the duty of the city engineer to ascertain the established monuments of the city survey, and from thence to extend the surveys of the city, and from thence to locate, establish and survey all private property and streets when called on or required so to do. It shall be the duty of the city engineer to attend the regular meetings of the city council, and he shall report from time to time the condition and progress of any public works under his supervision and control, and also make suitable reports from time to time, when specially directed or required by the city council. He shall make an annual report, setting forth the amount of work performed during the municipal year, the kind or character of said work, and generally give a clear, concise and business-like statement of the entire operations of his office. It shall be the duty of the city engineer, upon the application of any person desiring to construct any improvement, to furnish to such applicant a permit, which permit shall be presented to the mayor for his approval, and, when approved by him, shall be full authority for the construction of such improvement. No "right of way" over any of the streets within the city, shall be granted to any railway company unless a map and profile of the grades along the streets named shall accompany the application and ordinance, and it shall be the duty of the city engineer to inspect any and all such maps and profiles, and report the result of his investigations to the city council, and no "right of way" shall be granted until such examination shall be made and reported upon, in order to better protect the rights of property owners along the several streets; provided, that there shall be no cost attached to the city.

No railway company or street railway company within the limits of the city shall lay down additional tracks within the said limits without a special permit from the city council being first had and obtained; and it shall be the duty of the city engineer to examine and report on such application as to the advisability of granting said special permit; and the city engineer shall be required to do and perform such other acts as may be lawfully fixed by the city council.

Sec. 21. It shall be the duty of the sewer inspector to inspect all sewerage and plumbing work performed in the city of Houston, and take such steps as may be necessary to enforce the observance of all ordinances of said city relating to plumbing, sewerage and drainage, and also to perform such other services relating to the engineering department of

the city government as may be required of him by the city engineer and sewer committee.

Sec. 22. The city health officer shall be a physician in good standing and shall in conjunction with the mayor and the city council, have general charge of the sanitation of the city. He shall keep a register of births and deaths in the city, and shall report the same to the council at the first meeting of that body in each month; shall attend professionally on paupers when they shall need medical attention, and shall do and perform such other acts and may be guided by such regulations as may be prescribed by the city council.

Sec. 23. The city scavenger in all matters pertaining to privies and water closets shall have and exercise such powers as may lawfully be conferred upon him by the city council, which shall have authority to provide by ordinance that he may collect his fees in advance: and it shall be the duty of all persons to obey his orders or instructions in reference thereto, under penalty of fine to be fixed by ordinance; he shall be the only person empowered to remove night soil and shall receive such fees as shall be fixed by the city council, and he shall do and perform such other duties as may be lawfully prescribed by the city council, and shall in all things be guided by the ordinances of the city and the laws of the State.

Sec. 24. The health inspector shall be under the control of the health physician, and shall have the right in the discharge of duty to enter upon any premises between sunrise and sunset for the inspection of the same and may order the removal of any nuisance or any substance likely in his opinion to create a nuisance or to be injurious to the public health, but in any event application shall be by him first made to the owner or occupant of the premises for permission to enter and make such inspection; and he may be required to do and perform such other duties as may be lawfully prescribed by the city council.

Sec. 25. The chief of the fire department shall have charge of the fire department of the city, including the men, horses, apparatus and houses, under the control of the mayor and the fire committee of the city council and under such regulations as may be established by ordinance. He shall make a monthly report to the city council and annually shall prepare for publication in book form a full report of the operations of the fire department for the year, and may at any meeting of the council make such suggestions with reference to the affairs of his department as in his opinion will enhance its efficiency; and he shall have the power, under direction of the city council, to remove any structure which may be a menace to adjacent property. He shall do and perform such other acts as he may be lawfully directed to do by the city council.

Sec. 26. That the terms of service of all employes in the fire, police and health departments of the city of Houston shall continue during efficient service and good behavior, except the heads of departments, and no member of the fire, police and health departments now in the service or that may hereafter enter such service of said departments shall be discharged from said service of said departments unless proven guilty of an offense of sufficient gravity in the opinion of said police, fire and health board of the city of Houston for such discharge, and in any event such discharged member or employe shall have the right of appeal from said board to the city council. but said member or employe shall stand

suspended during the pendency of said appeal to the city council, and in case the charges are not sustained against said member or employe, such suspended member or employe shall be entitled to regular pay from the date of his suspension and be reinstated in the service. The rules and regulations now in force shall be continued as the rules and regulations of the department, so far as applicable under this section, but may be amended or altered by the city council upon the recommendation of the chief engineer and the fire committee of the council. To render any person eligible for employment in the fire department he shall be between the ages of 21 and 45, he shall be a citizen of the United States, shall have been a bona fide resident of the city of Houston for at least two years immediately preceding his appointment, shall be of good moral character and shall successfully pass a proper physical examination.

Sec. 26a. That on and after January 1st, 1898, the police, fire and health departments of the city of Houston shall be placed under civil service rules and regulations, save and except the heads of said departments, and shall be under the supervision, direction and control of the respective heads of said departments. The mayor and four aldermen receiving the highest number of votes at a city election, shall constitute a board which shall be known as the "Police, Fire and Health Board of the City of Houston," which said board shall make all necessary rules and regulations for the examination of applicants for positions in said departments, and said board shall also pass upon all charges preferred against any member or employe of any of said departments.

Sec. 27. That the salary and fees of officers of said city shall be determined by the city council at least one month previous to their election, which salaries and fees, when so determined, shall not be raised or lowered during the period for which said officers were elected. That the officers named in this charter shall perform the duties prescribed by this act, and such other duties as may be prescribed by ordinances. And there shall be such other officers, servants and agents of the corporation as may be provided by ordinance, to be appointed by the mayor with the approval of a majority of all the aldermen present at any meeting when such officer shall be nominated, as hereinbefore provided, who shall perform such duties and receive such compensation as may be prescribed by ordinance. The council may require any officer or agent of the city, as it may deem proper, to give good and sufficient bond, with approved security, for the faithful performance of his duties, in such sum as it may prescribe. That bonds shall be required of the city assessor and collector, in any amount not less than double the amount of funds which may probably be in their hands at any one time, to be determined by the council, which bonds shall be upon such conditions as may be determined by the city council, and with good securities, to be approved by the city council, and the city shall in like manner require bonds of any officer or agent of the city through whose hands the money of the city may pass.

Sec. 28. That the by-laws and ordinances of the city shall be enforced by fine not to exceed two hundred dollars; provided that no ordinance or by-law shall provide a less penalty than is prescribed for a like offense by the laws of the State. The city council may provide, by ordinance, for the commutation of fines imposed by labor in a work-house, on the streets or public works, or otherwise, as the council may legally provide, and for the collection of any fine imposed, execution may be issued from

the recorder's court in the name of the city of Houston against the goods and chattels, lands and tenements of the person offending.

Sec. 29. The city council shall have the exclusive control and regulation of all streets, alleys, public grounds and highways within the corporate limits of the city, and shall have power to abate and remove encroachments thereon in a summary manner, to put drains and sewers therein, and when necessary condemn private property for that purpose; to permit, to prevent and regulate the laying of gas and water mains therein, and the erection of telegraph, telephone and electric light poles therein; to impose such terms as to them may seem proper for the use of the streets and sidewalks for any purpose whatever, by any person or corporation, and to demand and collect for the use of the same such compensation as to the city council shall seem meet and proper; to regulate establish and change the grade of all sidewalks, streets and premises, and to require and compel the cutting down or filling up and raising of such streets and premises; to construct, regulate and keep in repair all bridges, culverts, sewers and crossings, and to control and regulate the use of the same; to construct, regulate and keep in repair all necessary sidewalks and footways and streets; to grade, cut down, and fill up and pave the same; to regulate the use, and abate and remove encroachments and obstructions thereon, and to compel the removal of the same, and to punish any person or corporation by fine, or by the imposition of a penalty, to be collected in a civil suit, who shall encroach upon or obstruct the same, or who shall fail to have such encroachments withdrawn, or such obstruction removed, after being notified by the proper officer to move or withdraw the same, and to provide by ordinance that each day such encroachment or obstructions are permitted to remain after notice is served, shall constitute a separate offense.

Sec. 30. The city council is hereby authorized and empowered to take and condemn land and real estate within the corporate limits of said city, to the public use, for streets, alleys and highways, and for extending and widening the same; and for public wharves and landing places for steamers and other crafts; for public schools, and for public squares, parks and pleasure grounds. For the condemnation of any land or real estate, the following proceedings shall be had: The city council shall pass a resolution describing by metes and bounds the land to be condemned, stating for what public purpose it is intended to be used, and thereupon the provisions contained in the Revised Civil Statutes of the State of Texas, A. D. 1895, relating to the condemnation of lands by railway companies, shall regulate and control the proceedings had and taken by said city for condemnation purposes, so far as applicable.

Sec. 31. The city council shall have authority by ordinance or resolution to order the filling up or draining any property where water is liable to accumulate and become stagnant; to order the proper and permanent connection of sinks and water closets with the public sewers, the removal of privies, and the filling up of cesspools; to order the cutting of weeds and tall grass on private property and on the adjacent sidewalks; and generally to order and control the doing of any work of a sanitary character which may be deemed necessary on or about any premises within the limits of the city of Houston, and to prescribe the time within which the same shall be done; and in no event shall any

such work be a charge against the city, but the expense shall be defrayed by the owners of the property involved.

Sec. 32. No person shall erect any building or fence in the city without first obtaining a permit as hereinbefore prescribed, and having the lines of his property established by the city engineer; provided, that fences may be constructed on interior lines without such permit, but all permits for building houses or fences shall be issued by the city engineer and approved by the mayor.

Sec. 33. That the mayor shall annually nominate and the council confirm by ballot, one person from each ward of the city, who together with the mayor as president thereof, shall constitute a board of health of the city. The city council shall prescribe by ordinance the powers and duties of the board and its members; and the city secretary shall be clerk of the board of health, and shall keep a record of their proceedings. That the city council shall have power to take such measures as they deem effectual to prevent the entrance of any pestilential, contagious, or infectious disease into the city; to stop, detain, and examine for that purpose any person coming from any place infected or believed to be infected with such disease, to establish, maintain and regulate pest houses or hospitals within the city, or not exceeding five miles from its bounds; to cause any person who shall be suspected of being infected with any contagious disease to be sent to such pest house or hospital; to remove from the city or destroy any furniture, wearing apparel, or property of any kind which shall be suspected of being tainted or infected with pestilence; to prevent persons from infected places coming into the city of Houston, and to adopt any sanitary measure whereby the health of the city may be protected and improved; but said corporation shall not have power or authority to prevent railroad trains and passengers therein from passing through the city, but may regulate the speed of such trains passing through and prevent their stopping; and in the exercise of such duties the city shall be held as exercising government functions only.

Sec. 34. The city of Houston shall have the right, by ordinance duly passed by the city council, to exercise such powers as may be necessary under the State law for the following purposes:

To secure the safety and convenience of passing in the streets, sidewalks and other places in the city.

To fix the squaring and to prevent encroachments and obstructions on the streets, sidewalks, squares, ways, levees, public roads and places.

To fix a place for the anchoring of water craft on Buffalo Bayou.

To establish an active system of inspection over the conduct of persons and premises.

To establish and maintain a city police, prescribe the duties of policemen and regulate their conduct.

To provide for lighting the streets by gas, electricity or other means, and for this purpose may establish gas works or electric works for the manufacture of gas or electricity for the use of the city and the inhabitants thereof.

To determine in what part of the city slaughter houses, bone boilers, soap makers, brick yards, or other establishments of any business which is or may be injurious to the value of adjacent property, or unwholesome or disagreeable to the occupants of adjacent property, shall not be al-

lowed to be carried on or to be erected, and to regulate the same, and provide for the removal of such establishments.

To determine in what part of the city wooden buildings shall not be erected; to prevent gunpowder or other explosive material, kerosene oil or other inflammable oils being stored within the city limits in such quantity as to endanger the safety of adjacent property.

To provide means for the protection against and the extinguishment of conflagrations, and for the regulation, maintenance and support of a fire department.

To permit or forbid theaters, balls or other public amusements, and to suppress the same whenever the preservation of order, tranquility or public safety may require.

To close dram shops, drinking saloons, and other places where intoxicating liquors are sold, and variety theaters whenever necessary or expedient.

To define what shall be a nuisance in said city, and to abate same by summary proceedings.

To prohibit and punish keepers and inmates of bawdy houses and variety shows, and to segregate and regulate the same, and to determine such inmates and keepers to be vagrants, and to provide the punishment of such persons.

To provide a work house, or other means of punishment, for vagrants and disorderly persons who are unable to pay fines, and to make regulations concerning the same.

To regulate weights and measures, fix standards of weight and measure, and to fix penalties for not using the same, and to provide that inspection fees may be fixed by ordinance, and shall be paid by the owner of such weight and measure.

To provide and keep a city prison.

To make all needful and proper regulations concerning keepers of taverns, grog shops and other public houses, draymen, horse drivers, water carriers, omnibus drivers, hack drivers and drivers of baggage wagons and other vehicles, and especially to preserve order and prevent noise and confusion in and about the several depots on the arrival and departure of railway trains.

To prevent extortion by carriers of passengers or baggage, hacks, drays and all public conveyances by establishing maximum rates of charges.

To suppress gambling houses, and to punish keepers of gambling houses and pool sellers, and all persons who play at cards, or games of any kind, and to punish persons who sell lottery tickets, or who advertise lottery drawings or schemes, and the results of the drawings of lotteries.

To require the railway companies to keep the streets over which they run properly drained, and if by the construction of the track travel be thrown to one side, then the street at such point shall be kept in repair, and to light the same whenever deemed necessary.

To require steam and street railway companies to construct and keep in repair, from curb to curb, bridges and crossings at the intersection of streets and avenues, and over all ditches, sewers and culverts on the line of the railways on all streets over which they run.

To regulate the speed of engines and locomotives within the city.

To regulate burial grounds and cemeteries, and to prohibit burial within the city limits if deemed advisable, and to condemn and close cemeteries and burial grounds in the thickly settled portions of the city when demanded by the public interest; to remove, or cause to be removed, all bodies interred in such condemned and closed cemeteries and burial grounds, and cause them to be reinterred in a suitable place, and to use such condemned ground for such purposes as may best subserve the interests of the city.

To direct and control the laying and construction of railroad tracks, turnouts and switches, and to regulate the grades of the same where they are below or above the city's grade, and that they be required to be constructed and laid out so as to interfere as little as possible with the ordinary travel and use of the streets.

The city council may provide, own or maintain gas works, electric light works and waterworks for the use of the city and the inhabitants; and for this purpose may issue and cause to be issued the bonds of the city in such sums as may be requisite and necessary, which bonds shall bear interest at a rate of not exceeding six per cent, and shall be sold at not less than par. The city council, by resolution, shall fix the denomination of such bonds and the date of their maturity; provided, that no such bonds shall be issued nor sold until a plant of sufficient capacity has been contracted for, and then only a sufficient number of bonds shall be issued to cover the actual cost of construction or purchase; provided, that the issuance of said bonds shall first be submitted to a vote of the tax payers of the city of Houston.

The city council shall have authority, by ordinance duly enacted, to provide for a system of public free schools and for a public library in the city of Houston, and to this end may make appropriations of the revenues of the city in amounts within the discretion of the council, and may receive donations of books, papers, magazines, periodicals or other property or money for the benefit of and maintenance of such public library.

The city council shall have power and authority to make all needful and proper regulations in regard to butchers and persons selling any meats, game or fish, and shall have the power to compel all such butchers and persons selling meats to have the same inspected before it can be offered for sale, and may prescribe, by ordinance, the manner in which the same shall be inspected, and shall have the power to compel any person so offering meats for sale to pay an inspection fee to the city for having his meats inspected. The city council shall also have the power to require that all animals shall be inspected on hoof before the meat can be offered for sale. The city council shall also have the right and power to establish or to arrange for establishing one or more slaughter houses and slaughter pens, either in the city limits or on the outside of same, and may require that all meats to be sold in the city shall first be inspected on the hoof and slaughtered in said slaughter houses and pens, and may require each person offering an animal to be inspected and slaughtered at said houses or pens to pay to the city a fee for said inspection and privilege of slaughtering at said slaughter house.

To provide for the regulation of bakers and for prescribing the weight, quality and price of bread manufactured and sold in the city of Hous-

ton, according to the price of the material or otherwise, and to provide for the inspection of milk cattle, whether kept within or without the city limits, from which milk is sold within the city, and to provide for the inspection of milk to be offered for sale.

To establish and regulate public pounds, and to regulate, restrain and prohibit the running at large of horses, mules, cattle, sheep, swine, goats and geese, and to authorize the distraining, impounding and sale of the same for the costs of the proceeding and the penalty incurred, and to order their destruction when they cannot be sold, and to impose penalties on the owners thereof for violation of any ordinance, and to impose penalties on the owners or keepers thereof.

To tax, regulate, restrain and prohibit the running at large of dogs, and to authorize their destruction when at large contrary to ordinance, and to impose penalties on the owners or keepers thereof.

To prohibit and restrain or regulate the rolling of hoops, flying of kites, firing of fire-crackers, use of velocipedes and bicycles, or use of any pyrotechnic or any other amusement or practices tending to annoy persons passing in the streets or sidewalks, or to frighten horses or teams; to restrain and prohibit the ringing of bells or the blowing of horns and bugles, crying of goods, and all other noises, practices and performances tending to the collecting of persons on the streets and sidewalks, by auctioneers and others, for the purpose of business, amusement of otherwise.

To prohibit and regulate the ringing of bells and blowing of whistles of railroad engines and locomotives within the city limits.

To prescribe the fees that shall be paid the city scavenger for the removal of night soil; to prohibit any one except the city scavenger, or those in his employ, from removing or carrying away the contents of any privy, vault or water-closet, or any receptacle of human excrement.

The right to prescribe, by ordinance, that it shall be the duty of the city scavenger whenever, in his judgment it may be necessary, to notify the tenants or owners of property that their premises need cleaning, and

To prescribe, by ordinance, that the tenant or owner of property who fails or refuses to do so.

To prescribe, by ordinance, that the tenant or owner of property who fails or refuses to pay the city scavenger for the removal of night soil from the premises owned or occupied by him the rate fixed by law for such removal, to be fixed [fined] upon conviction in the recorder's court in any sum not less than one dollar nor more than one hundred dollars.

To prevent any person from bringing, depositing or having within the limits of said city any dead carcasses or other offensive or unwholesome substance or matters, and to require the removal or destruction by any person who shall have placed, or caused the same to be placed, upon or near his premises, or elsewhere, any substance or matter, filth, or putrid or unsound beef, pork or fish, hides or skins of any kind, and on his default, to authorize the removal or destruction thereof by some officer of the city; and require the owner of any dead animal to remove the same to such place as may be designated.

To prevent, regulate and control the driving of cattle, horses, and all other animals into or through the city.

To prevent all trespasses, breaches of the peace and good order, assault and batteries, fighting, quarreling, using abusive, obscene, profane and

insulting language, misdemeanors, and all disorderly conduct, and punishing all persons thus offending. To prevent and punish the keeping of houses wherein indecent, loud or immodest theatrical representations are given, and to adopt summary measures for the removal or suppression of all such establishments. The city council shall have power to require on due notice all steam or street railway companies owning tracks within the city limits, which may have been or may hereafter be abandoned by them, by non-user, to remove such tracks and to restore, at their own expense, the street or way upon which such abandoned track is located to proper grade. To prevent, prohibit and suppress horse racing, immoderate riding or driving in the streets; to prohibit and punish the abuse of animals; to compel persons to fasten their horses or other animals attached to vehicles or otherwise, while standing or remaining in the streets.

To restrain and punish vagrants, mendicants, street beggars and prostitutes, inmates of bawdy and disorderly houses and gamblers, and the different kinds of vagrants, as defined by the State Penal Code.

The city council, for the purpose of guarding against the calamities of fire, may prohibit the erection, building, placing, moving or repairing of wooden buildings within such limits in said city as they may designate and prescribe; and may also, within said limits, prohibit the moving or putting up of any wooden buildings from without said limits; and may also prohibit the removal of any wooden building from one place to another within said limits, and may direct, require and prescribe that all buildings within the limits so designated and prescribed as aforesaid, shall be made or constructed of fire-proof materials; and to prohibit the rebuilding or repairing of wooden buildings within the fire limits, when the same shall have been damaged to the extent of 20 per cent of the value thereof, and may prescribe the manner of ascertaining such damage, may declare all dilapidated buildings to be nuisances, and direct the same to be repaired, removed or abated in such a manner as they shall prescribe and direct; to declare all wooden buildings in the fire limits, which they deem dangerous to contiguous buildings, or in causing or promoting fires, to be nuisances, and require and cause the same to be removed in such manner as they shall prescribe, and may prescribe limits within which only fire proof roofing shall be used, and may impose a penalty for violation of such rules and regulations.

The city council shall also have power to pass ordinances authorizing the destroying of clothing, bedding, furniture, and buildings infected with the germs of any contagious or infectious disease, when, in the discretion of the city council, the public health requires the destruction of the same, and may also, in the same manner, authorize the destruction or removal of buildings or other objects, after the same shall have been declared a nuisance by the city council; provided, the city shall pay the value of such property to the owners thereof. And generally to make and establish all rules, regulations, by-laws and ordinances which may contribute to and promote the better administration of the officers [affairs] of the said city, as well as for the maintenance of the peace, tranquility of said city, and for the protection of the persons and property of its inhabitants. And it shall be the duty of the city council, within six months after the passage of this charter, to have compiled, printed and published in book form, convenient of access by all citizens, this act and all

the ordinances of the city which may at the time be in force; and all such ordinances not so published shall thereafter become void; nor shall any ordinance hereafter passed take effect or be in force until the same has been published in some daily newspaper in said city.

Sec. 35. That no person shall be an incompetent judge, justice, witness or juror by reason of his being an inhabitant or freeholder in the city of Houston, in any action or proceeding in which said city may be a party interested; and all officers of said city shall be exempt from jury service while holding office.

That said corporation shall not be liable to any person for damages caused from streets, ways, crossings, bridges or sidewalks being out of repair from negligence of said corporation, unless the same shall have remained so for ten days after special notice in writing given to the mayor or street or bridge committee.

That it shall not be necessary in any action, suit or proceeding in which the city of Houston shall be a party, that any bond or security shall be given, but all actions, suits or proceedings shall be conducted as if such bond or security had been given.

In all judicial proceedings it shall be sufficient to plead any ordinance of the city by caption without embodying the entire ordinance in the pleading, and all printed ordinances or codes of ordinances shall be admitted in evidence in any suit, and shall have the same force and effect as the original ordinance.

The property, real and personal, belonging to the city, shall not be liable to be sold or appropriated under any writ of execution, nor shall the funds belonging to the city, in the hands of any person, be liable to garnishment, nor shall the city, or any of its officers or agents, be required to answer any writ of garnishment.

Sec. 36. The city council shall have the power to construct wharves on the banks of Buffalo Bayou within the limits of the corporation, and make such other improvements as may be necessary for the better navigation of said bayou, and for convenience of landing vessels and their cargoes; and to levy contributions upon all such vessels and their cargoes as may land at such wharves, and to demand and collect the same, to defray the expense of such improvements and repairs.

That said corporation of the city of Houston is hereby given full power and authority to take such steps to preserve and improve the navigation of the said Buffalo Bayou above the town of Harrisburg as they may think proper, and for that purpose they are authorized to levy and collect a tax on all steamboats and other crafts running in said bayou to the city of Houston, for the purpose of improving the navigation thereof; provided, that the power in this section shall not be construed to give said corporation any jurisdiction or control over said Buffalo Bayou or the banks thereof in any manner beyond the corporate limits of said city, except for the purpose of protecting or improving the navigation of said bayou, and shall not give said corporation jurisdiction or control to prevent or interfere with the construction of any railroad or other bridges by any company or person across said bayou in such manner as not to interfere with the navigation of said bayou; provided, the city shall have the right to condemn land on either bank of the bayou within the corporate limits for streets, wharves and other purposes necessary for the commerce of the city.

Sec. 37. That all works of improvement and public works for said city of Houston, the cost of which shall exceed the sum of five hundred dollars shall be let out by sealed bids to the lowest bidder whom the council in its discretion may deem best. City printing and all repairing of bridges or other similar work of which it is manifestly impossible to make specifications is not embraced in this requirement. The council shall determine the nature and extent of all sidewalks, curbing, drainage, sewer and paving improvements, and the drainage and sewer districts as heretofore laid out shall remain as determined.

The city council shall designate the streets and portions of streets on which improvements shall be constructed, and the city engineer shall be directed to prepare plans and specifications for the same for at least three classes of standard material in the case of paving, and for cement, brick and stone for curb walls, which said specifications shall be presented to the city council and referred to the board of public works with the designation of streets and portions of streets to be improved. The board of public works shall, within fifteen days, report their conclusions upon the proposed improvement and the plans and specifications therefor, when the council shall pass upon the same; provided, that the conclusions and recommendations of the board of public works shall be final unless changed, altered or rejected by a majority vote of two-thirds of all the aldermen. No contract shall be made or entered into until plans and specifications shall have been adopted and an advertisement inviting sealed proposals shall have been published in at least four issues of some daily paper published in the city of Houston stating the amount and kind of work to be done and the materials upon which bids are desired. No bids shall be considered unless made in accordance with the plans and specifications, and no allowance for extra work shall ever be made or paid for, but a separate contract shall be made by authority of the council for such work as may be necessary. The sealed proposals shall be addressed to the city secretary, and shall be opened only in the presence of the city council at a regular meeting. Bond and security to be fixed and approved by the city council shall be required of all contractors. When any proposals for work have been opened as above provided, they shall be referred to the board of public works, and the city engineer shall be required to make from the proposals an estimate of the cost of the whole work according to the plans and specifications adopted on each proposal for each class of material, which estimate shall be presented to the board of public works for their information, and upon the report of the said board of public works being made to the council, action shall be taken on the proposals, and the contract awarded; provided, that the council in its discretion may reject any and all bids.

If no bids be received, or those received be rejected, then and in that event the work may be proceeded with under the direction of the street and bridge committee and the city engineer, which latter officer shall be charged in all cases with proper supervision of all works of improvement, that the plans and specifications may be properly carried out.

Any railroad or street railway company shall be liable for the cost of grading, paving, repairing or repaving, or otherwise improving the portion of the street or intersections used or occupied by such railway company, and such cost shall be a lien upon the property and franchises of the company. The portion of a street occupied by any railroad or any

street railway company shall be deemed to mean all that portion of the same between the rails of all tracks laid and extending twelve inches beyond the outer edge of the rails of such road, and including the space between double tracks and between the main track, side tracks or turn-outs.

Any railroad or street railway company proposing to occupy any street already occupied by any other such company shall, besides paying for paving along their tracks as above provided, be required to also pay for paving between the tracks of said two roads to within twelve inches of the track of such other road; and such cost shall be a lien upon the property and franchises of the company.

Should any railroad or street railway company propose to lay a track on any street or portion of a street which shall have been improved under the provisions of this act, it shall become liable, according to the portion of street occupied by such company, as defined above, for such portion of the cost of improvement as the city council may direct, not in excess of what would have been its proportion of the original cost of the improvement had its track been on the ground when the improvement was made. Before any railroad or street railway company shall be permitted to occupy such improved street or portion of street, it shall file with the city secretary, in writing, prepared by the city attorney, an acceptance of the terms on which its occupancy shall be permitted.

Sec. 38. That no officer of the city of Houston shall be pecuniarily interested, directly or indirectly, in any contract let by the city, nor in any work done by the city; and in the event that any such officer should become interested as aforesaid in any contract or work by the city, then the said contract shall become null and void, and any such work shall be discontinued, and new contract shall be made or new arrangements made for continuing the work before any further progress is made under contract or otherwise.

Sec. 39. That the council shall have power and authority to establish one or more markets and market places, and within the sale of fresh meats, game, fresh fish, poultry, eggs, vegetables and such country produce and wares and merchandise as is usually sold in markets, at any place in said city other than said markets and market places so established, and to collect market licenses and privileges; to rent and lease for such length of time as the city council may determine, not exceeding one year, stalls or stands in said market for the sale of the before-mentioned articles, and to regulate and fix the price at which said stands or stalls shall be rented, and to provide for prompt collection of rent of the same, and to pay all expenses of collection thereof, and for properly caring for and keeping in repair the market building, and for pavement of streets fronting on and adjacent thereto, and for insurance of the same, and their contents; and such care, paving, insurance and general keeping of said market houses shall be paid for out of the revenues collected out of said market houses.

That the city council may appropriate to such use and purposes as may be deemed advisable such halls and rooms in the upper story of the market house as may not be necessary for public use, and to lease and rent the same from time to time.

Sec. 40. The city council may continue annually to assess, levy, and collect the special tax provided by ordinance passed by the city council

of said city on the 2d day of June, A. D. 1888, and for the purpose of paying the interest and principal of the various outstanding bonds issued by the city of Houston, and may, by ordinance, assess, levy and collect, annually, upon all property, real and personal, in the city of Houston, not exempt from taxation, such additional tax, not exceeding one and one-half per cent. ad valorem, as the interest of the city may require for other purposes; provided, that if the council should fail or neglect to pass a tax ordinance for any one year, levying the taxes for that year, that the tax ordinance last passed will be considered in force, and the failure to pass such ordinance shall in no wise invalidate the collection of the tax. It may, also, determine when taxes shall be paid by corporations or by individual corporators and levy, assess and collect upon each male citizen of the city, over the age of 21 years, an annual poll tax of one dollar.

All taxes upon real estate shall be a lien and charge upon the property upon which the taxes are due, which lien may be foreclosed, and the tax collected by suit in any court having jurisdiction. All taxes not paid within the time prescribed by the ordinances shall bear interest at the rate of 6 per cent per annum. All real and personal property held, owned or situated in the city of Houston shall be liable for all taxes due by the owners thereof, including taxes on real estate, personal property and poll tax. All personal property may be levied upon, seized and sold by the assessor and collector for any taxes that may be due, without further warrant of authority than the production of his tax roll, which sale, when made, shall convey a perfect title to the purchaser thereof, or the amount of the tax may be sued for in any court having jurisdiction, and a personal judgment may be recovered against the delinquent tax payer, or against any person to whom the personal property on which the city tax is due has been sold, or who owns, holds or claims possession of said personal property.

It shall be the duty of every person owning or holding property in the city of Houston to render, under oath, to the assessor and collector of taxes, at his office in said city, annually, within the time prescribed by the ordinances of said city, a full and complete inventory of all property so owned or held by him, whether real or personal, and to take and subscribe an oath as to the correctness of such inventory, which oath may be administered by the assessor and collector, in person or by deputy. All property, real, personal or mixed, except such as may be hereinafter expressly exempted, is subject to taxation, and the same shall be rendered and listed in the manner prescribed by the general laws in regard to general State taxation, when applicable. The definition of property and terms, as defined by the general laws under the head of "Taxation," and what is subject to taxation as prescribed by the general laws of this State, shall apply to the taxation of this city.

All taxes shall be payable at the office of the assessor and collector, and no demand by him be requisite or necessary to enforce the collection thereof by any proceedings herein described, nor for any taxes due before the passage of this act. The assessor and collector shall inventory and assess all property which the owner thereof may fail or refuse, or may have failed or refused, to inventory and assess for previous years, which inventory and assessment, when so made by him, shall be as valid and effective as if made by the owner thereof. When the description of

any property on the assessment sheets or tax rolls is vague and indefinite, the city may show by evidence other than the assessment and tax rolls where the property is located and on what property the tax is due, what parties own the property, and that the taxes on the same are due and unpaid, and enforce and foreclose the tax lien on such property.

The city council may and shall have full power to provide by ordinance for the prompt collection of all taxes levied, assessed and due, or becoming due to said city, and to that end may and shall deem necessary to the levying, laying, imposing, assessing and collecting of any of said taxes, and to regulate the mode and manner of making out tax lists and inventories and the appraisements of property thereon, and to prescribe the oath that shall be administered to each person on such rendition of property, and to prescribe how and when property shall thus be rendered, and to fix the duties and define the powers of the assessor and collector of taxes.

All taxes due by property owners on any and all property for the year 1875 up to and including the year 1896, and for all years to come until otherwise provided by charter, as appears upon the tax rolls of said city, may be collected by suit from delinquents and foreclosure of the lien thereon in any court having jurisdiction of the same, and any person who shall purchase property encumbered with a lien for taxes shall be deemed as to such taxes a delinquent tax payer, and such purchaser takes the property charged with the lien, and he can not interpose any defense which his vendor might not have interposed had he continued to be the owner.

The tax levied by the city is hereby declared to be a lien, charge and encumbrance on the property on which the tax is due, which lien, charge and encumbrance the city is entitled to enforce and foreclose in any court having jurisdiction of the same, and the lien, charge and encumbrance on the property in favor of the city for the amount of taxes due on such property is such as to give the State courts jurisdiction to enforce and foreclose said lien on the property on which the tax is due; not only as against any resident of this State, but against persons who are non-residents of this State, or whose residence is unknown, and against the unknown heirs of any persons who own the property on which the tax is due.

The city of Houston has a right to maintain a suit to recover a personal judgment for the amount of the tax due it, and the tax may be collected by sale of the particular property on which it is assessed by enforcing the lien, or by the sale of that or other property under a judgment of the court, or by seizure and sale of personal property.

For the taxes due on any property for any and all years from the year 1875, up to and including the year 1896, and for all years to come until otherwise provided by charter, either the tax rolls or a statement of the taxes due on any property made from said rolls, certified to and signed by the city assessor and collector of taxes of the city of Houston, shall be prima facie evidence that the tax on the property is due; that the facts stated therein are true, and that all the pre-requisites required by law pertaining to the levying and assessing of taxes on the property on which the suit is brought for the taxes due have been complied with. In addition to the tax rolls and the certified statements made from said rolls being prima facie evidence, as above stipulated, for the years 1890, 1891,

1892, 1893 and 1894, the deed executed by the sales made by him during said years, of property for taxes in accordance with the provisions of the charter of the city in force during the last named years, shall also be prima facie evidence that the tax on the property is due and unpaid; that the facts stated in said deed are true, and that all the requirements of the law have been complied with.

No delinquent tax payer shall have the right to plead in any court, or in any manner rely upon any statute of limitation by way of defense against the payment of any taxes due from him or her to the city of Houston. In suits for taxes, the proper persons shall be made parties defendant in such suit, and shall be served with process and other proceedings had therein as provided by law for suits of like character in the district courts of this State; and in case of foreclosure, an order of sale shall issue and the land be sold thereunder as in other cases of foreclosure, which order of sale shall have all the force and effect of a writ of possession between the parties to the suit and any person claiming under the defendant by any right acquired after the filing of the suit, and the sheriff or other officer executing such order of sale shall proceed, by virtue of the same, to place the purchaser of the property sold under said order of sale in possession thereof within thirty days after the date of sale, and such order of sale may direct that the sheriff, or other officer executing such order of sale, shall sell the property, either each piece separately, as under execution, or in gross, as the city, through its attorney, may direct; and if the defendant, or his attorney, shall at any time before the sale file with the sheriff, or other officer in whose hands any such order of sale shall be placed, a written request that the property described therein shall be divided and sold in less tracts than the whole, together with a description of said subdivisions, then such officer shall sell the land in said subdivisions as the defendant may request, and in such case shall only sell as many subdivisions, as near as may be, as will satisfy judgment, interest, court costs, and other costs hereinafter specified. In all cases in which lands have been sold or may be sold for default in the payment of taxes, it shall be lawful for the sheriff selling the same, or any of his successors in office, to make a deed or deeds to the purchaser, or to any other person to whom the purchaser may direct the deed to be made, and such deed shall be held in any court of law or equity in this State to vest a good and perfect title in the purchaser thereof.

The city attorney shall represent the city in all suits against delinquent tax payers. In any and all suits by the city of Houston for the collection of taxes due it, the city attorney shall be entitled to a fee of five per cent of the amount of the tax, which five per cent shall be taxed as costs against the property on which the tax is due; and in no case, after suit has been filed, shall a receipt for taxes be given on the property in suit until after the payment of the five per cent attorney's fee as above stated, the costs of the city assessor and collector, as hereinafter stated, and all court costs. When judgment has been taken for taxes due on property in suit, the five per cent attorney's fee, and other costs above named, shall be taxed as costs against the property to be sold under judgment for taxes, and paid out of the proceeds of the sale of same, together with the taxes and interest due thereon to the city. If the purchaser, at any sale under proceedings had to foreclose a tax lien on property sold

in the city of Houston for non-payment of taxes, shall fail to acquire a valid title to the property so purchased by him, by reason of any irregularity or defect in the assessment or levy or for any other reason whatsoever, whether of a jurisdictional character or otherwise, such purchaser shall nevertheless have a lien on the property so purchased for the taxes which would have been due on the assessment of taxes at any time before such taxes shall become due, same had all proceedings in reference thereto been legal and regular, together with all costs connected therewith; also for all taxes by him subsequently paid on said property with interest on all of such sums at the rate of six per cent per annum, and he shall be entitled to judgment for such amounts and for the enforcement of the lien against the owner of said property in the same action, wherein the invalidity of said sale is declared void, together his costs incurred in such action. In no case shall the city council or any member of the city council or officer of the city remit, discount or compromise any tax legally due the city. The city shall have equal right to become the purchaser at all sales of property under judgment or otherwise for taxes due it. All taxes shall be due and payable on the first day of July of each and every year, and if not paid by the first day of January thereafter the same shall bear interest from the said first day of January until paid at the rate of 6 per cent per annum. It shall be the duty of all persons from whom such taxes are due to call and pay the same to the city assessor and collector of taxes, at his office in the city of Houston, between the said first day of July and the first day of January next thereafter. Immediately after the first day of January in every year, it shall be the duty of the assessor and collector of taxes to prepare a roll containing a description of all the property described in the assessment rolls of the next preceding year, that is to say, of the year ending on the next preceding thirty-first day of December on which the taxes have not been paid. Said roll shall be called the "delinquent roll," and shall consist of so much of said roll as will identify the property and show the amount of tax due on the same. The city council shall not have the power or authority to extend the time for the payment of taxes, or in any manner delay the assessors and collector of taxes in the preparation of the "delinquent roll."

During the time that the city collector and assessor shall prepare the "delinquent roll" above described, he shall prepare separate statements of tax accounts due the city, to be furnished the city attorney on which [to bring] suits, which statement shall contain the description of the property, the year for which the tax is due, the amount of the tax due, the rate of taxation and the person or persons, estate, firm, or corporation, who assesses the same, or whether the property is rendered, unrendered, or owner is unknown as appears from the tax rolls, which statement the city assessor and collector shall certify to be correct, and which shall be prima facie evidence of the statements made therein, and that all the requirements of the law have been complied with; and the city assessor and collector shall be entitled to one dollar on each statement so made, which shall be taxed against the delinquent tax payer on the property on which the tax is due, and in case of suit to be taxed as a charge against the property, and the assessor and collector shall be entitled to refuse to issue any receipt to any delinquent tax payer until said one dollar has been paid; pro-

vided, that where several tracts of land and different kinds of property are assessed by the same person, firm, estate or corporation, that they shall be contained in the same statement; which said "delinquent roll" shall be finished and said statements furnished not later than the last day of February of each year. Said "delinquent roll" shall be published during the month of March following, for ten days in some daily paper published in the city of Houston; and the assessor and collector shall also be entitled to two dollars for advertising each tract of land separately assessed, which shall be taxed as a charge against the property on which the tax is due, and the assessor and collector shall be entitled to refuse to issue any receipt to any delinquent tax payer until the cost of advertising has been paid; and a failure to comply with these provisions by the city assessor and collector of taxes shall be deemed a malfeasance and be cause for impeachment. Upon the receipt of above tax statements by the city attorney, he shall, as soon as possible, institute suit in the proper court to enforce the collection of taxes due the city, and shall file suit on all of said statements furnished him by the city assessor and collector of taxes, by the next first of October after he has received them, and the failure on the part of the city attorney to file suits on said statements by the first of October shall be deemed a malfeasance and be a cause for impeachment; but a failure on the part of the city assessor and collector of taxes to prepare the "delinquent roll," or publish it for the required length of time, or furnish tax statements to the city attorney, or a failure on the part of the city to file suits within the proper time, shall in no wise affect the liability of the delinquent tax payer, nor shall such failure in any manner be relied on by way of defense against the payment of taxes due the city. Nothing but current money of the United States shall be collected or received in payment of taxes and licenses due or hereafter assessed, except coupons and script made receivable for taxes on the face thereof, shall be receivable for all taxes except the bond tax. In cases where the State has instituted suit for taxes, where taxes are due the city on the same property for the same years, that the city may have the right to intervene in said suit and have judgment for its taxes, and to enforce and foreclose its lien for said taxes, and in cases where the city has first instituted suit for taxes that the State may have the same right to intervene.

That the following property shall be exempt from taxation, to-wit: All lands used exclusively for graveyards, or grounds for burying the dead, except such as are held by any person, company or corporation with a view to profit, or for the purpose of speculation in the sale thereof; all buildings belonging to institutions of purely public charity, together with the lands belonging to and occupied by such institutions not leased or otherwise used with a view to profit, and all moneys and credits appropriated solely to sustaining such institutions, together with such other property as is exempt from taxation by the laws of the State of Texas.

That the city council by a vote taken by yeas and nays and entered upon the journal, shall have power to assess, license and tax hawkers, peddlers, auctioneers, theatrical and other exhibitions, shows and amusements, billiard tables, nine and ten pin alleys, alleys with any number of pins, public drays, wagons, omnibuses and carriages, grog shops, tippling houses and dram shops, beer saloons (whether for the sale of domestic beer or otherwise), and such other trades or occupations not especially mentioned herein as may be taxed by the laws of the State; but no assess-

ment or license tax levied under this section shall exceed one-half the amount levied by the State for the same period on such profession or occupation, and the same may be regulated, levied and collected in the same manner as said taxes are regulated and collected by the State.

That the license tax shall be collected by the assessor and collector of taxes, and shall be paid to that officer in current funds of the United States by each and every person or firm owing such license and before engaging in any trade, profession, business, calling, avocation or occupation subject to such tax, taking his receipt therefor, which receipt shall be esteemed lawful license for the pursuit of the occupation indicated. And if any person shall engage in any business, calling, avocation or occupation which by an ordinance of said city is subject to a license tax, without first having obtained such license, he, she or they shall be liable to arrest and imprisonment and a fine of ten dollars (\$10) for each and every day such violation of said ordinance may continue; and this section shall apply to all persons owing license and failing to pay the same, and the city council may make such further regulations as it deems necessary to enforce this provision and punish the violation thereof.

The city council may by resolution provide for the pay and may allow interest upon advance payment of taxes at a rate not to exceed six per cent per annum for the time intervening between the time of such payment and the time when such taxes would be due and payable; provided, that no such resolution shall be passed, nor such interest allowed, except for the purpose of raising money to meet the current expenses of the city for legitimate purposes. Such resolution shall state the amount of money sought to be raised by this means, and when said amount has been received the assessor and collector shall immediately notify the mayor and city council that the amount called for in the resolution has been received, and the city council shall not pay interest on moneys subsequently paid in for taxes of that year. In receiving moneys for taxes in advance, under the resolution provided for herein, the assessor and collector shall allow the tax payer to retain out of such payment the amount of interest allowed thereon, and shall give his receipt for the whole amount showing what sum is actually paid in, and what sum is allowed as interest on such payment.

A board of appraisement composed of two aldermen and one citizen shall be annually nominated by the mayor and confirmed by the council, and it shall be their duty as soon as possible after the completion of any one of the assessment rolls by the assessor and collector of taxes to meet and carefully examine said roll, and properly and equitably adjust the taxable values thereon, thus continuing until they have examined and adjusted and equalized the taxes assessed on all the rolls under regulations to be fixed by the city council, when they, together with the assessor and collector of taxes shall make due report of their action to the city council. The members of said board shall receive such compensation for their services while engaged upon said rolls as the council may determine, not to exceed five dollars per day, and all matters pertaining to taxation shall be referred to such board, from whose final decision there shall be no appeal; provided further, that the board of appraisement shall not remain in session over sixty days.

Sec. 41. The city council shall have the power and authority to issue during the year 1897, bonds to the amount of two hundred and fifty

thousand dollars, which shall be sold for not less than par, the proceeds of the sale of which shall be devoted to the paving of streets, and sewers, and the city council shall also have the power and authority to issue bonds for the purpose of funding bonds of the city of a previous issue and may also, by a vote of two-thirds of all the aldermen elected, borrow money on the credit of the city for permanent improvements to an amount not to exceed one hundred thousand dollars in any one year, and may issue bonds of the city therefor. No additional bonds shall be issued for any purpose without submission to a vote of the tax payers of said city.

To create a debt during any one year exceeding one hundred thousand dollars exclusive of refunding bonds and of bonds for the purpose of paving streets and constructing sewers provided to be issued for the year 1897, as above authorized, the question must be submitted to the tax paying voters of the city, and if a majority of the votes polled shall be in favor of creating such debt, it shall be lawful for the city council to authorize the issuance of bonds for the amount named in the resolution named in the ordinance or resolution submitting the question to the voters.

No bonds shall be issued drawing more than six per cent per annum interest, and they shall be invalid if sold for less than par; and all bonds shall express upon their face the purpose for which they are issued.

The ordinance authorizing any bonds to be issued shall provide a fund to pay the interest, and create a sinking fund sufficient to pay the bonds at maturity, and said sinking fund shall be invested in bonds of the State of Texas, of counties in the State of Texas, or in bonds of the United States, or may be used for the purchase of bonds of the city which are not yet due, and neither interest nor sinking fund shall be devoted to any other purpose whatever.

Sec. 42. That this act shall be deemed a public act, and judicial notice shall be taken thereof in all courts. No general law hereafter passed by the Legislature of the State shall be held to repeal any power herein granted, or which is now vested in the corporation of Houston, unless the act conferring such power be specially referred to in such repealing act.

Sec. 43. The city council may, whenever it deems it to be the best interest of the city, pass an ordinance fixing salaries for all officers and employes, and provide by ordinance that all fees and commissions shall be paid into the treasury of the city; provided further, that this ordinance, in the event of its passage, shall not become effective until the next city election.

Sec. 44. Whereas, there are no adequate laws in force providing for the paving, improving and repairing of the streets and sidewalks of the city of Houston, there exists an imperative public necessity for suspending the constitutional rule requiring bills to be read on three several days, and an emergency exists, which requires this act to take effect from and after its passage, and it is so enacted.

[Note.—The foregoing act passed the Senate by a two-thirds vote, yeas 22, nays none; and having passed the House, with amendments, by a two-thirds vote, yeas 89, yeas none, the senate concurred in the amendments by a two-thirds vote, yeas 22, nays none.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Friday, the thirtieth day of April, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

S. B. No. 372.]

CHAPTER 8.

An Act to amend the caption and Sections 1, 2, 3, and 4, of an act entitled "An Act to amend Sections 1, 6, 7, 105, 105a, 105b, and 105c, of an act entitled 'An Act to amend Sections 38, 103, 105, 106, and 108, of an act entitled 'An Act to incorporate the City of Fort Worth and to grant a charter to said city,' approved March 20th, 1889, and Sections 6, 7, 29, 34, 88, and 102, of said act as amended by the Twenty-second Legislature in 1891; and to add thereto Sections 35a, 35b, 101a, 101b, 101c, 101d, 101e, 102a, 103a, 104a, 106a, 106b, and also 105a, 105b, 105c, in reference to the Board of Equalization, and providing for an appeal from said Board to the District Court, passed by the Legislature of Texas in the year 1895, and to add to said act the following Sections, to wit: 105d, 105e, 105f, 105g, 105h, 105n, 105o, and 105p, and to repeal all laws and parts of laws in conflict with this act," passed by the Twenty-fifth Legislature in the year 1897, and to re-enact the caption and Sections 1, 2, 3, and 4, of said act as the same are hereby amended, and to repeal all laws and parts of laws in conflict with this act.

Section 1. Be it enacted by the Legislature of the State of Texas: That the caption and Sections 1, 2, 3 and 4, of this act hereby amended, be, and the same are hereby amended, so as to read as follows, to-wit:

Caption.

An Act to amend Sections 6 and 7, of an act entitled "An Act to incorporate the city of Fort Worth, and to grant a charter to said city," approved March 20th, 1889, as amended by an act of the Legislature of the State of Texas, passed and approved in 1891, and further amended by an act of the Legislature of the State of Texas passed in 1895, and to amend Section 105 of said act, approved March 20th, 1889, and entitled as aforesaid, as said Section 105 was amended by the Legislature of the State of Texas in 1895, and to amend sections 105a, 105b, and 105c, of an act entitled "An Act to amend sections 38, 103, 105, 106 and 138, of an act entitled 'An Act to incorporate the city of Fort Worth and to grant a charter to said city,' approved March 20th, 1889; and Sections 6, 7, 29, 34, 88 and 102, of said act as amended by the Twenty-second Legislature in 1891, and to add thereto Sections 35a, 35b, 101a, 101b, 101c, 101d, 101e, 102a, 103a, 104a, 106a, 106b, and, also, 105a, 105b, 105c, in reference to Board of Equalization, and providing for an appeal from said Board to the District Court;" and to add to said act Sections 105d, 105e, 105f, 105g, 105h, 105n, 105o, 105p, and to repeal all laws and parts of laws in conflict with this act."

Section 1.

Be it enacted by the Legislature of the State of Texas: That Sections 6, 7, 105, 105a, 105b, and 105c, of the acts amended hereby, be and the same are hereby so amended as to read as follows:

Section 6.

Officers, How Chosen—The Mayor, and one alderman from each of the wards of the City of Fort Worth, and the City Assessor and Tax Collector, the City Marshal and the City Treasurer, shall constitute the only elective officers of said city, and they and each of them, shall hold their respective offices for two years, and until the election and qualification of their successors. The Mayor, City Assessor and Collector of Taxes, the City Marshal, and the City Treasurer, shall be elected by the qualified voters of said city, as hereinafter provided. One alderman, only, shall be elected from each of the wards of said city by the qualified voters of such ward, at the time and in the manner hereinafter provided. The nine aldermen who were elected for the term ending April, 1898, shall be the hold-overs, and from and after the April election in 1897, for city officers, said nine aldermen shall be the only aldermen, in, and shall alone constitute, the city council of the city of Fort Worth, and the nine aldermen who were elected for the term ending in April, 1897, shall go out of office immediately after the counting of the returns of the election for city officers held in April, 1897, and they shall, thereupon, cease to act as aldermen, and shall have no successors in office.

There shall be no election for aldermen in 1897, and at the election for aldermen to be held in 1898, and thereafter, only one alderman shall be elected from each of the wards of the said city of Fort Worth. The acts and things done since the close of the election in April, 1897, for city officers of the city of Fort Worth, by the said nine holding-over aldermen, as the city council of said city, are hereby recognized as, and are declared to have been, the acts and doings of the valid and lawfully constituted city council of the said city of Fort Worth.

Section 7.

The city council shall at its first regular meeting in April, 1897, after the counting of the returns of the election for city officers in said year, and every two years thereafter, elect a City Secretary, a City Judge, a City Attorney, a City Engineer, a Street Commissioner, a Chief or the Fire Department, and a Superintendent of Water Works, and a Secretary of Water Works, and a City Auditor, and a City Health Officer and Physician, each of whom shall hold his respective office for two years, and until his successor shall have been elected and qualified. Should said city council fail to elect all or any of said officers at its first regular meeting, as herein provided, then it shall do so at the next regular meeting or as soon thereafter as practicable.

Section 105.

A Board of Equalization for the city of Fort Worth, to be composed of three free-holders, shall be appointed, as follows: One by the County Judge of Tarrant County; one by the Judge of the District Court of Tarrant County that meets just after the first week in January; and one by the city council; all of whom shall be appointed in January, or as vacations may occur, and who shall hold their offices for two years, except

the first board under this act, which shall be appointed as soon as this act goes into effect, and not later than the first day of August, 1897, and shall hold their offices until their successors shall qualify.

Section 105a.

The duties and powers of the Board of Equalization shall be the same as is prescribed in the general laws for Boards of Equalization for cities and towns, except that said Board shall not in any instance, unless appealed to by a tax payer, who complains of over-valuation, or by the city complaining of an under-valuation; and in such case the Board of Equalization shall set a time to hear the evidence, and shall determine the matter according to the law and the evidence; and in no case shall property be assessed higher than it would ordinarily sell for in cash; that the said general laws shall, in all other respects, govern the said Board, except in the manner of their appointment, and except, also, the right of the tax payer or the city appeal from the action of said Board to the District Court, as provided in the city charter.

Section 105b.

The first Board of Equalization created under this act shall also have power on application of any person owning real estate or any interest therein, to correct and reduce any prior assessment of such real estate when taxes have not been paid, by reason of over-valuations, and certify the same to the Assessor and Collector of Taxes for said city, who shall be governed thereby, in the collection of taxes for said year; and in doing so the said Board shall hear evidence as to the cash market value of such property, for the year named, and shall be governed accordingly, by such evidence and the law.

Section 105c.

The action of the Board of Equalization shall be final in all cases, unless an appeal is taken therefrom, to the District Court of Tarrant County, Texas, which may be done by any person or the agent or attorney of any person aggrieved by the action of the Board, by giving notice in writing to said Board, of such appeal and the grounds thereof, within ten days after the final approval of the assessments rolls by said Board, and giving bond payable to the city, to be approved by the City Assessor and Collector of Taxes, for the sum of fifty dollars, conditioned that the appellant will pay all costs of such appeal, if the action of the Board of Equalization should be sustained by the court, or if the valuation of the property of such appellant shall be raised over the amount at which it stands assessed; a copy of such bond and such notice of appeal, and a description made by the Assessor and Collector of Taxes, of the property of the appellant involved therein, shall be filed in said District Court by the Assessor and Collector, on the application of the party aggrieved, and the case shall be docketed on the civil docket thereof, in the name of the appellant as plaintiff, against the Board of Equalization of the City of Fort Worth, and all such appeals shall be presented to the first

term of the District Court, after notice of appeal is given, and shall have precedence for trial of all civil cases in said court; and the decision of the District Court in such matters shall be final; provided, however, that if such appeal has not been finally adjudicated by the 31st day of December of the current year, it shall be the duty of the appellant to pay all of said taxes assessed by the Board of Equalization against him, and in case he fails to pay said taxes by said time, said appeal shall be dismissed, and the action of said Board of Equalization held to be final. But in the event the appellant pays all the taxes assessed against him by the Board of Equalization on or before December 31st of such current year, then and in that event, if the court shall, on final adjudication, place a valuation upon appellant's property lower than the valuation placed by said Board of Equalization, the amount of taxes paid on the valuation which is found to be in excess of the valuation fixed by the court, shall be refunded to him by warrant drawn by the order of the city council, and said District Court shall compel the issuance of such warrant. The lists of property and the values thereof, as settled by the Board of Equalization; a copy, or a copy of so much thereof as may be pertinent to the questions at issue, may be produced in court to be read in evidence on such trials. The notice of appeal from the action of the Board of Equalization as to assessments for prior years, shall be given within ten days after the specific action or order of said Board complained of by the party appealing; provided, that the party appealing from the action of the Board of Equalization as to the taxes for said prior years, when the appeal has not been determined prior to December 31st, 1897, shall pay his full amount of taxes and costs for said years, or said appeal shall be dismissed, and the action of the Board of Equalization held to be final.

Section 2.

Be it further enacted by the Legislature of the State of Texas: That to the said acts there be added the following sections, to-wit; 105d, 105e, 105f, 105g, 105h, 105n, 105o, 105p.

Section 105d.

That the taxing power of said city is limited to one dollar and fifty cents per one hundred dollars taxable values of property in said city, for all purposes, for any one year.

Section 105e.

That no bonds shall ever be issued by said city in excess of 5 per cent of the total assessed values of the property in city, and then only upon the vote of the tax payers of the said city; and before any such election shall be held, the same shall be ordered by two-thirds of all the elected city council at a regular meeting held by such council; and after ten days has been allowed for the registration of the qualified voters, tax payers of said city, and the said council shall make provision for such registration, and give due notice thereof and of the time and place for registration, and of the time and place for voting, and shall, in such notices, specify the purpose of such election. At such election none but duly registered

tax payers of said city shall be entitled to vote, and a majority of all such registered voters voting at such election shall be necessary to carry such election. The said bonds when issued shall not run for a longer period than twenty years, and shall be redeemable at the option of the city after five years from date of issuance; shall bear no greater interest than five per centum per annum, and shall never be sold for less than par value, accrued interest included; and all bonds issued, authorized as herein provided for, shall provide for the levy and assessment of a sufficient tax to pay the annual interest and create a sinking fund sufficient to pay off bonds at maturity.

Section 105f.

The city of Fort Worth shall not have power to issue or have outstanding the promissory notes of said city for any greater amount than twenty-five thousand dollars, and the promissory note of said city shall not bear a greater rate of interest than eight per centum per annum; provided, that said city council shall have the right, in case of public calamity threatening or affecting the people of said city, to issue notes in an additional sum of twenty-five thousand dollars, to bear interest not to exceed eight per cent per annum.

Section 105g.

No license shall ever be granted by the city of Fort Worth to any person to sell spirituous, vinous, or malt liquors at retail in any residence portion of said city, except upon the petition of all heads of families who reside within three blocks of where the same is to be sold, and all licenses granted contrary to this section shall be void. And any city official issuing license contrary to the provisions of this section shall be subject to impeachment and removal from office; provided, that this section shall not apply to Main and Houston streets from the Court House Square to the Texas and Pacific Railroad Reservation, nor to Jennings Avenue from Ninth street to the Texas and Pacific Railroad Reservation, and to West Weatherford street from the Public Square to Royal avenue; nor to such other business streets as may be from time to time designated by the city council.

Section 105h.

The wards of said city shall never exceed in number, nine, and from and after the counting of the returns of the April election, in 1897, for city officers for said city of Fort Worth, there shall be only one alderman for each ward.

Section 105n.

The annual salary of the officers of said city shall be as follows:

The Mayor of said city shall receive, from and after the next general election in April, 1897.....	\$1,500
The City Judge shall receive	750
The City Attorney shall receive	1,500

The City Secretary shall receive	\$1,600
The City Treasurer shall receive	10
The City Marshal shall receive	1,500
The City Engineer shall receive	300
The City Chief of the Fire Department shall receive.....	1,200
The City Superintendent of Water Works shall receive.....	1,500
The City Auditor shall receive	1,200

The City Assessor and Collector of Taxes shall receive as compensation one per cent of the amount collected from real estate, and three and one-half per cent of the amount collected from personal property, and five per cent on the amount collected from occupation, and ten per cent on the amount collected from poll taxes, to be retained in each case out of the money collected.

Section 105o.

The compensation of all other city officers or employes shall be fixed by the city council, but no one not hereinbefore provided for shall receive a greater annual salary than the sum of twelve hundred dollars.

Section 105p.

The city council of said city may, at their will and pleasure, fund any valid and outstanding indebtedness into bonds bearing no greater annual interest than five per centum per annum, reserving always in said bonds the right of said city to redeem them, or call them in, at any time after five years from date of such bonds, and such bonds shall never be sold for less than their par value, with accrued interest; provided, that said bonds shall not, together with all other bonds issued by said city, exceed said five per cent limitation on the bond-issuing powers of said city hereinbefore provided.

Section 3.

That all laws and parts of laws in conflict with the provisions of this act shall be and the same are hereby repealed.

Section 4.

That whereas, the city of Fort Worth is without suitable laws on the subjects herein embraced, and the annual election for the officers of said city is now near at hand, therefore, an imperative public necessity and an emergency exist that the constitutional rule requiring bills to be read on three several days be, and the same is, hereby, suspended, and that this act shall take effect and be in force from and after its passage, and it is so enacted.

Sec. 2. Be it enacted by the Legislature of the State of Texas: That the said Caption, and Sections 1, 2, 3, and 4, of the said Act of 1897, as the same is hereby amended, be and the same are hereby re-enacted.

Sec. 3. That all laws and parts of laws in conflict with the provisions of this act shall be and the same are hereby repealed.

Sec. 4. That, whereas, doubt has arisen and litigation is threatened because of an erroneous construction attempted to be given to some of the provisions of the act amended hereby, and the validity of the corporate acts of the said city of Fort Worth are liable to be assailed and the said city involved in litigation, therefore an imperative public necessity and an emergency exist that the constitutional rule requiring bills to be read on three several days be, and the same is, hereby suspended, and that this act shall take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act passed the Senate by a two-thirds vote, yeas 23, nays none; and passed the House by a two-thirds vote, yeas 88, nays none.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Thursday, the sixth day of May, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto, within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

H. B. No. 567.]

CHAPTER 9.

An Act to amend Sections 9, 11, 18, 19, 21, 32, and 44, of an act entitled An act to incorporate the City of Denison and to fix the boundaries thereof, etc., passed March —, 1891; to provide for the election of aldermen and other officers of said city by the people, and for fixing their compensation; to provide for the filling of vacancies in said offices; prescribing the duties of the city secretary and for fixing his compensation; to vest in the City Council, only, the power to contract debts for the city and to appropriate money to pay the same, and to repeal all laws or parts of laws inconsistent with this act.

Sec. 1. Be it enacted by the Legislature of the State of Texas: That Sections 9, 11, 18, 19, 21, 32, and 44, of an act entitled An Act to incorporate the city of Denison, and fix the boundaries thereof, etc., passed March — 1891, be amended so as to read as follows:

Section 9.

Aldermen from wards must be residents of said wards, and voted for only by the voters of their wards, and four additional aldermen at large shall be elected by all the qualified voters of the city, who shall hold their offices for two years, except at the first election held under this act, when the two receiving the highest number of votes shall have the two-year term, and the two next highest shall have the one-year term, and thereafter two aldermen at large shall be elected each year at the annual election.

Section 11.

Said election shall be ordered by the mayor or city council. For the purpose of holding such elections and others ordered, the city council shall appoint annually in each ward some suitable person who shall be presiding officer at all elections in his ward.

Section 18.

The other officers of said city shall be a treasurer, assessor and collector, a city secretary, a city judge, a city attorney, a chief of police, a city engineer, a street commissioner, and a city jailor, and such other officers and agents as the city council may direct. All the officers above named, except the city secretary, shall be elected by the qualified voters of the city of Denison, as the present terms of such officers expire, and every two years thereafter, as provided in section 8. This section shall not be construed to interfere with the terms of any person now occupying any of said offices. Said officers elected by the qualified voters shall hold their offices for two years and until their successors are elected and qualified. They shall give such bond as the city council may require, and perform such duties as are herein provided or may be prescribed by the city council. Other officers and agents that the city council may create, shall be elected by the city council on the second Monday in May of each year, and shall hold their offices for the term of one year, but they shall be removable from office by the city council at pleasure, at any regular meeting, and the city council shall have power at any regular meeting to fill vacancies in such offices by election.

Section 19.

The compensation of all officers elected by the people shall be fixed by the city council not less than ten days before each annual election at which such officers are elected, and the compensation of officers and employes elected or appointed by the city council shall be fixed by the city council electing or appointing such officers or employes on or before the first day of May in each year; and the pay of no city officer shall be increased or diminished during his term of office, and no city officer shall receive any extra pay during his term of office.

Section 21.

Any officer moving out of the city limits, or the ward from which he may have been elected alderman or school trustee, or ceasing to possess any of the qualifications required of him, shall thereby vacate his office, and the same shall be filled by special election of the city council, until the next regular city election, when a successor shall be elected for the unexpired term.

Section 32.

It shall be the duty of the city secretary to attend every meeting of the city council and keep accurate minutes of the proceedings thereof in a book to be provided for that purpose, and to engross and enroll all laws, resolutions and ordinances of the city council; to keep the corporate seal; to take charge of, preserve, and to keep in order, all books, records, papers, documents and files of said council; to countersign all commissions issued to the city officers and licenses issued by the mayor, and to keep a register or record thereof, and to make out all notices re-

quired under any regulation or ordinance of the city. He shall draw all warrants on the treasurer and countersign the same, and keep an accurate account thereof in a book provided for that purpose. He shall be the general accountant of the corporation, and shall keep in books the regular accounts of the receipts and disbursements of the city, and separately, under proper heads, each cause of receipt and disbursement, and also account with each person, including officers who have money transactions with the city, crediting amounts allowed by proper authority and specifying the particular transaction to which such entries will apply. He shall also keep a register of bonds and bills issued by the city, and all evidences of debt due and payable to it, noting the particulars thereof and all facts connected therewith, as they occur. He shall carefully keep all contracts made by the city council, and he shall do and perform such other duties as may be required of him by law, ordinance, resolution or order of the city council. He shall also, after the election for April, 1897, perform the duties of registrar of voters of all elections for city officers under the Australian system, as prescribed by the laws of the State. He shall receive for his services an annual salary, payable at stated periods, and such additional fees may be allowed by the city council.

Section 44.

The city council, only, shall have the power to contract debts for the city, to appropriate money and provide for the payment of the debts and expenses of the city.

Sec. 2. All laws and parts of laws in conflict with this act are, so far as they affect the city of Denison, hereby repealed.

Sec. 3. The fact that it is important to the interest of the general public of said city that the changes of the charter of said city made by this act go into effect immediately, and that the municipal election of said city will be held early in the month of April next, and it is desirable that said election be held under this act, creates an emergency, and an imperative public necessity which requires the suspension of the constitutional rule requiring bills to be read on three several days, and that this act take effect and be in force from and after its passage, and it is so enacted.

[Note.—The foregoing act passed the House, vote not given; and passed the Senate by a two-thirds vote, yeas 25, nays none.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Saturday, the eighth day of May, A. D. 1897, but was not signed by him nor returned to the house in which it originated with his objections thereto, within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

S. B. No. 340.]

CHAPTER 10.

An Act to amend the charter of the City of Galveston, by amending Sections 39, 116, 127, and by adding thereto Sections 90a, 132d, 132e, 176, 188a, 188b, 188c, 188d, 188e, 188f, 188g, 188h, 188i, 188j, 4a, 6a, 72a, 91, 92, and 93.

Section 1. Be it enacted by the Legislature of the State of Texas: That sections 39, 116 and 127 of the charter of the city of Galveston be and the same are hereby amended so that they shall hereafter read as follows:

Section 39. To enact and establish one or more hospitals, and control and regulate the same, and to regulate or prohibit and punish the establishment of private hospitals in said city; provided, that the city council may grant permission for the establishment and maintenance of private sanitariums in said city, the location of said sanitariums to be subject to the approval of the board of health of said city.

Section 116. There shall be and is hereby created a board called commissioners of waterworks, to consist of six members, three of whom shall be freeholders and qualified voters of said city, and three members of the city council of said city, all of whom shall be chosen during the month of July, 1897, and biennially thereafter, and shall hold their offices for two years, and until their successors are duly elected and qualified.

The three freeholders aforesaid shall be appointed by the mayor, with the approval of a majority of the city council elected, and their compensation shall be fixed by the city council, not to exceed \$300 per annum. They shall take the oath of office required of other officers, and give bond for the faithful performance of their duties, payable to the city of Galveston in the sum of ten thousand dollars, to be approved by the committee on finance and revenue of the city council. The three members of the city council aforesaid shall be selected by said council in such manner as said council may deem proper; and they shall receive no salary in addition to their compensation as members of the city council.

Upon appointment and qualification of said commissioners, they shall organize by the selection of a chairman from among their own number, and a majority of the commissioners shall constitute a quorum for the transaction of business.

The waterworks, including the collection of water rates, tolls and revenues, shall be under the control, management and administration of the board of commissioners, and the said board shall appoint all officers agents and employes necessary for the efficient operation of the works, and prescribe their duties and compensation; provided, however, that the appointment of any officer, agent or employe whose compensation shall [exceed] twelve hundred dollars, annually, shall be submitted to the city council for approval and confirmation by a majority vote of all the aldermen elected.

The board shall adopt rules and regulations for the management of the water works, and shall have authority to remove or suspend for cause, any officer, agent or employe of said department.

The board shall have authority to do all work and repairs, purchase all material and supplies, and employ all labor necessary for the efficient operation of the water works; but all contracts involving the expendi-

ture of a sum exceeding five hundred dollars, except for operating expenses, shall be submitted to the city council for approval.

Whenever the city council shall, by ordinance, provide for the extension of the system of water works, it shall be the duty of the board to contract for the construction of the same, subject to the approval of the city council.

Any contract made under this act for the construction or extension of the water works shall be paid for by the city with the proceeds of the 5 per cent 40-year bonds issued for that purpose, and by funds set apart for that purpose by the city council in its annual budget.

The board shall, with the approval of the city council, establish a schedule of water rates and tolls, prescribe the mode and manner of the construction of the service pipes, and their connection with the water mains.

The revenues of the water works shall be paid into the treasury at the end of each week, and shall constitute a special fund to be used for the benefit of the water works, and the payment and redemption of the bonds issued for their construction.

The city council shall pass all ordinances necessary for the protection and preservation of the water works, and for the prevention of waste.

The board shall keep a complete record of their proceedings, transactions, collections, expenditures, contracts and claims, and shall report the same in detail to the city council monthly, which report shall be referred to the committee on finance and revenue of the city council, whose duty it shall be to examine and report on the same, and for this purpose said committee shall have the right at all times to inspect and examine all records, papers and books of the board.

No commissioner shall be directly or indirectly interested in any work, business or contract, the expense, price or consideration of which is to be paid from the city treasury, or by an assessment levied by an ordinance or resolution of the city council.

The said commissioners shall be deemed and taken as officers of the city, and liable to the provisions of article 266 (250) of the Penal Code.

Sec. 127. The city council shall have full power and authority to raise, fill, grade, repair, or otherwise improve any avenue, street, alley or sidewalk, or any portion thereof, in the corporate limits of said city, to such extent and out of such material, and under such regulations as said council may provide, whenever two-thirds of the aldermen elected vote in favor of such improvements; provided, that, except as hereinafter prescribed, the owners of the property fronting or abutting on such avenue or street so improved shall pay two-thirds and the city one-third of the cost thereof, and the owners of the property abutting on any alley or sidewalk so improved shall pay the entire cost of such improvement; and provided, also, that when any person, corporation or company owns or operates any street railway or railway of any kind on such avenue or street, such person, corporation or company shall pay one-third of the cost of filling, raising, paving, repairing or otherwise improving that part of said avenue or street so improved, and the owners of fronting or abutting property the other two-thirds; and the said city shall be relieved of its pro rata so paid by the owners or operators of such roads; and provided, also, that the city shall pay for all street intersections from lot to lot across the streets either way, so improved, except when

occupied or used by said railways, in which event one-third of the cost thereof must be paid as above provided by the owners or operators of said railways. Property owners shall pay the entire cost of all curbing. The cost of such improvements owing by property owners and the owners and operators of railways, together with the expense of collecting the same, shall be a special tax and lien against the lot or lots or blocks fronting or abutting upon the thoroughfares or ways improved, and against the road bed, ties, rails, fixtures, rights and franchises of such street or other railways that may be operated or located thereon; and they shall be due and payable by said property owners and operators of said railways in five equal annual installments or less, at the option of such property owners and owners and operators of railways, all of which shall draw interest from the date of assessment until paid at the rate of six per cent per annum. The first installment shall be due and payable immediately after the completion of such improvement, and an installment equal thereto shall become due and payable annually thereafter until the entire amount is paid; and a failure to pay any one of the installments within sixty days after the same has become due shall cause all the unpaid installments to at once mature. All repairs and temporary improvements of avenues, streets and alleys shall be at the cost of the city; but the word "repairing" as here used, shall apply only to small or ordinary defects in avenues, streets or alleys that have been put to grade and paved or otherwise improved; and the city council are hereby authorized and required to set aside annually out of the general revenues of said city a sum equal to not less than one-twentieth of one per cent on the one hundred dollars valuation of all property within said city not exempt from taxation, which fund, to be so set aside in the annual budget, shall be used only for such repairs and temporary improvements. Permanent street improvements, within the meaning of this act, shall be only such as are constructed of blocks or granite, blue limestone, trap rock, crushed rock, macadam material, gravel, shell, thoroughly creosoted wood, thoroughly vitrified brick, or of Trinidad asphaltum, or other asphaltum equal to it in quality; but repairs to the same shall not be classed or paid for out of funds provided for such permanent improvements; provided, that nothing herein shall be construed as limiting the right of the council to test other approved methods and materials for street paving, and paying therefor out of the permanent street improvement funds. The city council are hereby empowered and required to set aside in the annual budget a fund to an amount not exceeding one-fourth of one per cent on the one hundred dollars valuation of all property within said city subject to taxation, which shall be used exclusively for the payment of the city's share of the cost of such permanent improvements.

And that the charter of the city of Galveston be and is hereby amended by adding thereto sections, as follows, to wit: 90a, 116, 132d, 132e, 176, 188a, 188b, 188c, 188d, 188e, 188f, 188g, 188h, 188i, 188j, 4a, 6a, 72a, 91, 92, and 93.

Sec. 90a. Any and all descriptions of real estate, blocks, outlots, lots, or any parts or fractions thereof, and of all personal property, and any and all dates, years, valuations, taxations, numbers, quantities or amounts contained in any assessment roll, land-tax book, personal tax book, or description contained in any book or roll used for purposes of assessing

property, shall be sufficient and valid when made or stated, in whole or in part, in abbreviations or contractions of words, letters, characters or figures; and when so made or stated, shall be deemed and held to be fully and fairly made and stated, as though the same had been written out in full. No error or irregularity in any assessment roll, tax book or other document relating to the assessment, levy or collection of the taxes of the city shall, in any manner, affect or impair the validity of any tax or affect the proceedings for the collection thereof; but every such assessment shall be liberally construed to effect the purposes and objects of this section, and in determining the validity thereof.

Section 132d. In addition to the power to issue one million two hundred and forty thousand dollars of bonds, as provided for in section 132c, the city shall have power to issue bonds to the amount of two hundred thousand dollars, of such denomination as the mayor may deem proper, payable forty years after the date of their issuance, and bearing interest, payable semi-annually, at a rate not exceeding 5 per cent per annum. Said two hundred thousand dollars bonds to be sold for cash at not less than par, and the proceeds thereof to be used for the payment of the existing floating general indebtedness of the city, and the mayor is hereby authorized to appoint a financial agent to dispose of said bonds.

In addition to the general taxation, the city shall have power to provide for the payment of this issue of two hundred thousand dollars of bonds. In addition to the said two hundred thousand dollars of bonds to take up the floating debt, the city shall have power to further issue three hundred thousand dollars of bonds of the same denomination and tenor for the construction and establishment of a sewerage system; and in addition to general taxation, to provide for this issue of sewerage bonds. That the earnings and revenues from said sewerage system over and above what is required to defray the operating expenses thereof and pay the accruing interest on said sewer bonds and provide a sinking fund therefor of two and one-half per cent, shall be applied, first to reimburse the general fund of the city in the amount taken therefrom to carry the sewer bonds and defray operating expenses of the plant until the sewer rates suffice to meet such fixed charges; and hereafter all earnings over and above fixed charges shall be expended by the board of commissioners of public works in the systematic extension of said sewerage system, and that provision be made by the city council that the sinking fund of said sewerage bonds may, in the event that no sewerage bonds can be redeemed on reasonable terms, be invested in other bonds of the city yielding the best interest. Said bonds shall be signed by the mayor and countersigned by the city clerk, and shall be payable at such places as may be fixed by ordinance of the city council. It shall be the duty of the mayor, when such bonds are issued, to forward the same to the Comptroller of State, whose duty it shall be, after approval by the Attorney General, to register them in a book kept for the purpose, and to endorse on each bond registered his certificate of registration. The indebtedness provided for in this section shall not be limited or governed by the provisions or limitations contained in sections 28, 132, 132a or 132b of this charter.

The city of Galveston shall acquire by purchase the plant of the Galveston Sewer Company, the value of the said plant to be ascertained by

arbitration, the city of Galveston to appoint one arbitrator, the Galveston Sewer Company another, and the two so appointed to name a third man, the determination of a majority of the arbitrators to be final and binding on both parties.

Section 132e. The city council shall have power to issue bonds to the amount of fifty thousand dollars (\$50,000), of the denomination of one hundred dollars (\$100) each, or any multiple thereof, payable forty years after the date of their issue, and bearing interest, payable semi-annually, at a rate not exceeding five per centum per annum, said bonds to be sold for cash at not less than par, and the proceeds thereof to be used and expended as follows: The proceeds of said bonds shall be used to raise, fill, grade, repair, macadamize, or otherwise improve any avenue, street, alley or alleys in the corporate limits of said city, to such extent and out of such material and under such regulations as said council may provide, whenever two-thirds of the aldermen elected vote in favor of such improvement; provided, that not more than twenty-five thousand dollars (\$25,000) shall be expended on any such work by the city in any one year, from this fund or from the proceeds of the issue of the bonds authorized by this section. The indebtedness provided for in this section shall not be limited or governed by the provisions or limitations contained in sections 28, 132, 132a, 132b, 132c, and 132d of this charter.

Section 176. A day is defined to be eight hours, to all employees of the city, and this amendment is to control any and all previous provisions for a nine-hour day.

Section 188a. That on and after August 1, 1897, the police, fire, health and water works departments of the city shall be placed under civil service rules and regulations, as hereinafter provided, save and except the heads of the different departments.

Section 188b. All appointments under said rules and regulations shall be made after examination by the boards having charge of the respective departments, as may be prescribed for admission to the different departments of service, and with the assistance, in case of the police and fire departments, of at least three members of the force. All appointees shall hold their positions during good behavior, and shall not be dismissed therefrom except for the improvement or economy of the service, or for cause, on the order of said boards having control (in the case of the police and fire departments, the police and fire commission, and in the water works and health departments, the board of commissioners of water works, or the board of public works). When dismissal from the service is for the purpose of economy, the discharged shall be entitled to vacancies in the order of discharges.

Section 188c. No city employe holding office under the classified civil service shall be removed or requested to resign, or reduced or degraded in rank or in pay, or transferred from one class of work to a less desirable class of work (except when arrested for a criminal offense, when suspension or removal may take place at once, at the discretion of the mayor), until after written charges shall have been preferred by the heads of departments, and after the charges shall have been examined into by the police and fire commission or the board of public works, as the case may be, upon reasonable notice to the person accused, and in such manner of examination as the regulations of the different depart-

ments may prescribe; but pending such examination such employe may be suspended.

Section 188d. Records shall be kept in the different departments of service, of the names of applicants, residences, date of appointments to service, date of discharge and cause, and such other matter as may be material to the efficiency of the service. Vacancies shall be filled in the order in which applications and percentages appear in the said records, and promotions shall be made in record order.

Section 188e. No person shall be appointed to a position on the police force or fire department unless he be a citizen of the United States, a resident of the city of Galveston for two years next preceding his appointment, of good moral character, and of good repute for honesty and sobriety. He shall never have been convicted of a felony, and shall, understandingly, read and write the English language.

Section 188f. No person shall be appointed on the police force who is deficient in strength and courage, or is less than twenty-five or more than fifty years of age. He shall be not less than five feet seven inches in height, nor weigh less than one hundred and thirty pounds. He must present a certificate from the city physician that he is of sound health and free from any physical debility which would incapacitate him from performing the duties of a policeman.

Section 188g. No person shall be appointed to a position on the fire department who is deficient in strength, activity or intrepidity, or who is less than twenty-one or more than forty-five years of age. He must present a certificate from the city physician that he is in sound health and free from any physical debility which would incapacitate him from performing the duties of a member of the fire department. Exception shall be made of the members of the fire department holding positions at the time this law takes effect.

Section 188h. All persons appointed to positions of a permanent character in the other departments of the city government controlled hereunder, and not specifically mentioned, shall be of good moral character, of good repute for honesty and sobriety, citizens of the United States, residents of the city of Galveston for at least two years next preceding appointment, shall never have been convicted of felony, understandingly read and write the English language, and possess such other qualifications as may be necessary. They shall be efficient in health, strength and activity.

Section 188i. The boards in making appointments shall be governed solely by fitness of the applicant, and no person shall ever be appointed or removed for or on account of partisanship, or for or on account of his political opinions.

Section 188j. No person employed hereunder while on duty shall take part in any political caucus or convention, or take part in any primary, special or general election (except to vote); and any officer, member or employe violating any of the provisions of this section shall forfeit his position.

Section 4a. No officer of this city shall be present in the polls at any election held under the provisions of this charter, except policemen in the discharge of their duty, and then only when called upon by the presiding officer. The violation of the provisions hereof shall be punished by a fine not exceeding two hundred dollars.

Section 6a. All elections held by virtue of this charter shall be under and in accordance with the system of voting known as the Australian Ballot System. The city council may provide rules and regulations therefor; provided, that no person shall enter the booth with any elector, or in any way mark his ticket, except the voter be a blind man, or a man otherwise incapable of marking his ticket; then he may have the assistance of two judges; and provided, further, that no electioneering shall be done by any person within one hundred yards of the voting place, and no imitation of the ticket to be voted shall be brought or carried by any person within the place of voting. No person shall offer or give any money, or other thing of value for the purpose of influencing the vote of any person in any election, nor shall any person ask or receive any money or other thing of value for his vote or influence in any election. Any violation of this act shall be deemed a misdemeanor, and shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or imprisonment in the county jail not less than thirty days, nor more than six months, or both. Any person who shall be elected to the office of mayor or alderman, shall, before entering upon the duties of his office, file with the city clerk an itemized statement of his election expenses under oath, and if it be found that he, or any supporter or campaign committee, with his knowledge, has spent, loaned or given any money or other thing of value, for the purpose of influencing votes, then the office to which he has been elected shall be declared vacant, and a new election held to fill the vacancy.

Section 72a. The city council shall have power to require all property owners whose property may be located upon or near any street or alley along which may extend any sewer system or sewerage that the city may construct or authorize to be constructed, to connect with such sewer or system of sewerage, all water closets, sinks and drains located upon their respective property or premises, so that their contents may be made to empty into such sewer or system of sewerage, whether said system is the property of the city or otherwise.

Section 91. It shall be the duty of the city council annually, as soon as the assessment roll of taxes due the city are completed, to sit as a board of equalization to equalize the taxes assessed on said rolls, and they shall have the same powers and duties as the county commissioners' courts of this state in regard to said assessments and equalization; and shall be governed in their procedure and acts as is provided by the general laws of this State relating to the equalization of State and county taxes by said commissioners' courts. Provided, that any provision of this charter in conflict herewith is hereby repealed. Provided, further, that said city council shall not sit for more than thirty days in performing the duties herein prescribed.

Section 92. It shall be the duty of the assessor to make out a list of all property, both real and personal, which has not been given in for assessment, according to the provisions of this act, and ordinances made in pursuance thereof, and assess the same in the name of the owner, if he be known, and if not, then it shall be assessed by description of the property and last known owner, and the value of such property shall be determined by the board of equalization provided for in this charter, and

the same may be sold as in other cases, if the tax be not paid in the time prescribed by law.

Section 93. It shall be the duty of the assessor, at the expiration of the time fixed by ordinance for the rendition of property, to ascertain what property in the city subject to taxation shall be by him presented to the board of equalization for valuation by said officer and board, and then shall by him be entered in a supplement to the assessment roll as unknown, and specifying the year for which said tax is not paid within the time prescribed by law; said property shall be sold at the same time and with like effect as other property.

Sec. 2. The fact that several of these amendments should be made effective at once creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and said rule is so suspended, and that this act take effect and be in force from and after its passage, except where otherwise provided.

[Note.—The foregoing act passed the Senate by a two-thirds vote, yeas 23, nays none; and having passed the House, with amendments, by a two-thirds vote, yeas 87, nays 1, the Senate concurred in the House amendments, vote not given.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, on Thursday, the twentieth day of May, A. D. 1897, but was not signed by him not returned to the house in which it originated with his objections thereto, within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

THE STATE OF TEXAS,
Department of State.

I, J. W. Madden, Secretary of State of the State of Texas, certify that the foregoing special laws, passed at the regular session of the Twenty-fifth Legislature, have been carefully examined and compared with the original enrolled bills, now on file in this department, and are true copies of said originals.

I further certify that the Twenty-fifth Legislature convened in the city of Austin January 12, A. D. 1897, and adjourned May 21, A. D. 1897.

In testimony whereof I have subscribed my name and
[Seal] have hereto affixed the seal of the State of Texas, in the
City of Austin, this August 26th, A. D. 1897.

J. W. MADDEN,
Secretary of State.

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GENERAL LAWS

OF

THE STATE OF TEXAS

PASSED AT THE

SPECIAL SESSION OF THE TWENTY-FIFTH LEGISLATURE

CONVENED

AT THE CITY OF AUSTIN

MAY 22, 1897, AND ADJOURNED JUNE 20, 1897.



AUSTIN
1897

GENERAL LAWS OF TEXAS.

FIRST SPECIAL SESSION TWENTY-FIFTH LEGISLATURE, 1897.

H. B. No. 3.]

CHAPTER 1.

An Act making an appropriation for the per diem pay of members, officers and employes of the first called session of the Twenty-fifth Legislature of the State of Texas, convened May 22nd, 1897, by proclamation of the Governor.

Section 1. Be it enacted by the Legislature of the State of Texas: That the sum of thirty-five thousand dollars, or so much thereof as may be necessary, be and the same is hereby appropriated out of any money in the State treasury not otherwise appropriated, for the payment of the per diem pay of the members, officers and employes of the first called session of the Twenty-fifth Legislature of Texas, convened May 22nd, 1897, by proclamation of the Governor.

Sec. 2. That the certificate of the Secretary of the Senate, approved by the President thereof, or the certificate of the Chief Clerk of the House, approved by the Speaker thereof, shall be sufficient evidence to the Comptroller upon which he shall audit the claims and issue his warrants upon the treasury for the respective amounts.

Sec. 3. Whereas, the called session of the Twenty-fifth Legislature, for the payment of the members, officers and employes of which this law is enacted, is now in session, and public policy requires their payment, therefore an imperative public necessity exists that the rule requiring this bill to be read on three several days be suspended, and it is so suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved, May 29, 1897.

[Note.—The foregoing act passed the House by a two-thirds vote, yeas 86, nays none; and passed the Senate by a two-thirds vote, yeas 23, nays none.]

H. B. No. 18.]

CHAPTER 2.

An Act for the immediate relief of the citizens of the city of El Paso and El Paso County, who are suffering from the overflow of the Rio Grande, during the past week, and to appropriate five thousand dollars therefor.

Section 1. Whereas, the unprecedented rise in the waters of the Rio Grande have, within the past week, caused a large portion of the City of El Paso and the surrounding country to be flooded, thereby causing

great destruction of property, especially so in the City of El Paso, rendering homeless thousands of the citizens of said city;

Whereas, the destitute people are in great need of food and clothing, creating demands upon the city for relief beyond its power to comply with immediately; therefore,

Be it enacted by the Legislature of the State of Texas: That the sum of five thousand dollars (\$5000), or so much thereof as may be necessary, be and the same is hereby appropriated out of any money in the State treasury not otherwise appropriated, for the immediate relief of the said citizens of El Paso city and county, who are suffering from said flood, said money to be expended under the direction and supervision of the County Judge of El Paso County, together with the mayor of the City of El Paso; said money to be paid out on warrants of the Comptroller, which warrants shall be issued on certificates of said Judge and Mayor within sixty days from the passage of this act.

Sec. 2. The great flood which swept a portion of said city and vicinity within the last few days is hereby declared to be a great public calamity, and an emergency and an imperative public necessity exist requiring that the constitutional rule which requires that bills be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved, June 2, 1897.

[Note.—The foregoing act passed the House by a two-thirds vote, yeas 88, nays none; and passed the Senate by a two-thirds vote, yeas 24, nays none.]

H. B. No. 21.]

CHAPTER 3.

An Act making an appropriation to defray the contingent expenses of the first called session of the Twenty-fifth Legislature, convened May 22nd, 1897, by proclamation of the Governor.

Section 1. Be it enacted by the Legislature of the State of Texas: That the sum of five thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of any moneys in the State treasury not otherwise appropriated, to pay the contingent expenses of the first called session of the Twenty-fifth Legislature, convened May 22d, 1897, by proclamation of the Governor, and that the approval by the chairman of the Committee on Contingent Expenses of either House, countersigned by the President of the Senate or Speaker of the House of Representatives, as the case may be, shall be sufficient authority to authorize the Comptroller to issue his warrant on the State Treasurer for the payment of any account so drawn against said fund.

Sec. 2. That the public importance of the objects herein contemplated creates an imperative public necessity and emergency, fully authorizing the suspension of the constitutional rule requiring bills to be read on three several days in each house, and said rule is hereby suspended, and that this act shall take effect and be in force from and after its passage, and it is so enacted.

Approved, June 15, 1897.

[Note.—The foregoing act passed the House by a two-thirds vote, yeas 87, nays none; and passed the Senate by a two-thirds vote, yeas 21, nays 1.]

S. B. No. 5.]

CHAPTER 4.

An Act making appropriations for deficiencies in the appropriations heretofore made for payment of expenses in support of the State government from March 1st, 1895, to February 28th, 1897, and for previous years, being for payment of claims registered in the Comptroller's office in accordance with law, and for outstanding claims not registered, and other deficiencies.

Section 1. Be it enacted by the Legislature of the State of Texas: That the following sums, or so much thereof as may be necessary, be and the same are hereby appropriated out of any money in the treasury not otherwise appropriated, for deficiencies incurred in support of the State government for the period beginning March 1, 1895, and ending February 28, 1897, and for previous years:

North Texas Insane Asylum.

	Registered.	Estimated.
Wagons, hacks and harness for year ending February 28, 1895	\$34 63	

Judiciary Department.

Fees and costs of sheriffs, clerks and attorneys, in felony cases	38,788 00	\$4,000 00
Fees of county judges, justices of the peace, sheriffs and constables, in examining trials...	2,616 00	1,000 00
Fees of attached witnesses	47,264 19	1,500 00
Fees of clerks in civil cases	3,379 17	100 00
Fees of attorneys in civil cases	11,931 00	400 00

Court of Criminal Appeals.

Clerks' fees in criminal cases, year ending February 28, 1896	610 00	
Clerks' fees in criminal cases, year ending February 28, 1897	970 00	500 00
Contingent expenses, year ending February 28, 1896	2 45	

Court of Civil Appeals, Second District.

Contingent expenses, year ending February 28, 1896	3 43	
Contingent expenses, year ending February 28, 1897	41 60	
Postage, year ending February 28, 1897	8 70	
Stationery, year ending February 28, 1897	28 40	

Texas Live Stock Sanitary Commission.

	Registered.	Estimated.
Year ending February 28, 1897	994 40	
Miscellaneous.		
Refund to purchasers of public domain, 1896-7, where in accordance to the certificate of the Commissioner of the General Land Office it is shown that because of conflict, erroneous sales, and other causes, patents cannot issue; said claims to be approved by the Attorney General and Governor	843 16	
Relief of liquor dealers prior to 1895	890 40	
To Lawrence Smith, for services as guard at Camp Mabry, for five months, at \$35 per month ..	175 00	
For relief of W. Y. Robinson, sheriff of San Ja- cinto county, for fees April and October terms of court, 1895, and April term, 1896, he hav- ing failed to present the account to the Comp- troller for payment within the time prescribed by law	763 45	
Groceries, drugs, shoes, and other expenses for State Orphan's Asylum	1,716 16	
G. B. Martin, sheriff of King county, for guard- ing infected stock under the direction and by order of the live stock sanitary officers.....	12 50	

Sec. 2. Whereas, there being no appropriations to pay claims against the State herein provided for, which are outstanding and are legal claims against the State, creates an emergency and an imperative public necessity which justifies the suspension of the constitutional rule which requires bills to be read on three several days in each house, and this act should take effect from and after its passage, and it is so enacted.

Approved, June 15, 1897.

[Note.—The foregoing act passed the Senate by a two-thirds vote, yeas 21, nays 1; passed the House, with amendments, by a two-thirds vote; and was referred to a free conference committee, the report of which was adopted by the Senate, vote not given, and was adopted by the House by a two-thirds vote, yeas 89, nays 1.]

S. H. B. 6 & 19.]

CHAPTER 5.

An Act to fix certain civil fees to be charged by certain county and precinct officers, and to fix and limit the fees and compensation of clerks of the district court, district attorneys, county attorneys, sheriffs and constables in felony cases, to be paid by the State, and to fix the compensation of assessors and collectors of taxes, and to limit and regulate the compensation of the sheriff, clerk of the county court, county judge, district and county attorney, clerk of the district court, assessor and collector of taxes, justices of the peace and constables, and to prescribe penalties for the violation of this act, and to repeal all laws in conflict herewith.

Section 1. Be it enacted by the Legislature of the State of Texas: That hereafter, in all the counties in this State, where there shall have been cast at the next preceding presidential election 3000 votes or over, the clerks of the district courts, district attorneys, county attorneys, sheriffs and constables shall receive from the State the following fees and compensation in felony cases, and no more:

Sec. 2. The clerks of the district court shall receive for each felony case tried in such court by jury, whether the defendant be convicted or acquitted, the sum of \$8. For each transcript on appeal or change of venue, 8 cents for each 100 words. For each felony case finally disposed of without trial, or dismissed or nolle prosequi entered, \$8. For recording each account of sheriff, the sum of 50 cents. For entering judgment in habeas corpus cases, 80 cents; and for taking down testimony and preparing transcript in habeas corpus cases, 8 cents for each 100 words; but the fees in habeas corpus cases shall, in no event, exceed \$8 in any one case.

Sec. 3. The district or county attorneys shall receive the following fees:

1. For all convictions in cases of felonious homicide, when the defendant does not appeal, or dies, or escapes after appeal and before final judgment of the Court of Criminal Appeals, or, when upon appeal the judgment is affirmed, the sum of \$40.

2. For all convictions of felony when the defendant does not appeal, or dies, or escapes after appealing and before final judgment of the Court of Criminal Appeals, or, when upon appeal, the judgment is affirmed, the sum of \$24; provided, that in all convictions of felony where the verdict and judgment is confinement in the House of Correction and Reformatory, the fees of the district or county attorney shall be \$12.

3. For representing the State in each case of habeas corpus where the defendant is charged with felony, the sum of \$16.

Sec. 4. The sheriffs or constables shall receive the following fees:

1. For executing each warrant of arrest or capias, or for making arrest without warrant, when authorized by law, the sum of 80 cents, and 4 cents for each mile actually and necessarily traveled in going to the place of arrest, and for conveying the prisoner or prisoners to jail, mileage as provided for in subdivision 5 shall be allowed.

2. For summoning or attaching each witness, 40 cents.

3. For summoning jury in each case where jury is actually sworn in, \$1.60.

4. For executing death warrants, \$40.

5. For removing a prisoner, for each mile going and coming, including

guards and all other necessary expenses when traveling by railroad, 8 cents; when traveling otherwise than by railroad, 12 cents; provided, that when more than one prisoner is removed at the same time, in addition to the foregoing shall only be allowed 8 cents per mile for each additional prisoner; provided, further, that when an officer goes beyond the limits of the State after a fugitive on requisition of the Governor, he shall receive such compensation as the Governor shall allow for such services.

6. For each mile the officer may be compelled to travel in executing criminal process, summoning or attaching witnesses, 4 cents; provided, that in no case shall he be allowed to duplicate his mileage when two or more witnesses are named in the same or different writs in any case, and he shall serve process on them in the same neighborhood or vicinity during the same trip. He shall not charge mileage for serving such witness to and from the county seat, but shall only charge one mileage, and for such additional only as are actually and necessarily traveled in summoning and attaching each additional witness. When process is sent by mail to any officer away from the county seat, or returned by mail by such officer, he shall only be allowed to charge mileage for the miles actually traveled by him in executing such process, and the return of the officer shall show the character of the service and miles actually traveled in accordance with this subdivision, and his accounts shall show the facts.

7. To officers for service of criminal process not otherwise provided for, the sum of 4 cents a mile going and returning shall be allowed; provided, if two or more persons are mentioned in the same or different writs the rule prescribed in subdivision 6 shall apply.

8. For conveying a witness attached by him to any court, or in any habeas corpus proceeding out of his county, or when directed by the judge from any other county to the court where the case is pending, \$1 per day for each day actually and necessarily consumed in going and returning from such courts, and his actual necessary expenses by the nearest practicable route, or nearest practicable public conveyance, the amount to be stated by him in an account, which shall show the place where the witness was attached, the distance to the nearest railroad station, and miles actually traveled to each court. If horses or vehicles are used, from whom hired and price paid, and length of time consumed and amount paid out for feeding horses and to whom. If meals and lodging were provided, from whom, and when, and price paid; provided, that officers shall not be entitled to receive exceeding 50 cents per meal and 35 cents per night for lodging for any witness; and provided, further, that no item or items for expenses shall be allowed unless the officer shall present with his account to the officer whose duty it is to approve same a receipt in writing for each item of said account, except as to such items as are furnished by the officer himself; and when meals and lodgings are furnished by the officer in person conveying a witness he shall be allowed to receive not exceeding 25 cents per meal and 25 cents per night for lodging. All of the said receipts shall be filed with the clerk of the court approving such account. Said account shall also show, before the said officer shall be entitled to compensation for expenses of attached witnesses, that before starting with said witnesses to the foreign court, he carried each of them before the magistrate nearest the place of serving the attachment, giving his

name and residence, and that said witness made oath in writing before said magistrate, certified copies of which shall be attached to the account, that they were unable to give bond for their appearance at court, or refused to give bond after having been advised by said officer of their right to do so. And the officer shall also present to the court the affidavit of the witness to the same effect, or shall show that the witness refused to make the affidavit; and should it appear to the court that the witness was able and willing to give bond, the sheriff shall not be entitled to any compensation for conveying such witness; and said account shall be sworn to by the officer before any officer authorized to administer oaths, and shall state that said account is true, just, and correct in every particular, and present the same to the judge, who shall, during such term of court, carefully examine such account, and if found to be correct in whole or in part, shall so certify and allow the same for such amount as he may find to be correct; and if by him allowed, in whole or in part, he shall so certify; and such account, with the affidavit of the sheriff and certificate of the judge, shall be recorded by the clerk of the district court in a book to be kept by him for that purpose, which shall constitute part of the proceedings or minutes of the court; and the clerk shall certify to the original account, and shall show that the same has been recorded; and said account shall then become due and the same shall constitute a voucher, on which the Comptroller is authorized to issue a warrant, and such minutes of the court, or a certified copy thereof, may be used in evidence against the officer making the affidavit, for perjury, in case said affidavit shall be wilfully false. When the officer receiving the writ for the attachment of such witness, shall take a bond for the appearance of such witness, he shall be entitled to receive from the State \$1 for each bond so taken; but he shall be responsible to the court issuing said writ that said bond is in proper form and has been executed by the witness with one or more good or solvent sureties, and said bond shall in no case be less than one hundred dollars; provided, the Comptroller may require from such officer a certified copy of all such process before auditing any account; provided, that when no inquest or examining trial has been held, at which sufficient evidence was taken upon which to find an indictment, which fact shall be certified by the grand jury, or when the grand jury shall state to the district judge that an indictment can not be procured, except upon the testimony of non-resident witnesses, the district judge may have attachments issued to other counties for witnesses, not to exceed the number for which the sheriff may receive pay, as provided for below, to testify before grand juries; provided, however, that the judge shall not approve the account of any sheriff for more than one witness to any one fact, nor more than three witnesses to any one case pending before the grand jury, in which case the sheriff shall receive the same compensation as he does for conveying attached witnesses before the court. Subdivision 8 section 4 of this act shall apply to the officers affected thereby in all the counties in Texas.

9. For attending a prisoner on habeas corpus, for each day, \$1.60 together with mileage, as provided in subdivision 5, when removing such prisoner out of the county, under an order issued by a district or appellate judge.

Sec. 5. All fees accruing under this act shall be due and payable at

the close of each term of the district court after approval, except as provided for in subdivisions 8 and 9 of the preceding section, which shall be paid when approved by the judge under whose order the writ was issued; provided, that in all cases when the defendant shall be finally convicted of a misdemeanor, the sheriff or constable shall be required to pay back to the State Treasurer a sum of money equal to the amount he may have received from the State in such cases, and the said sheriff or constable and their bondsmen shall be responsible to the State for such sums.

Sec. 6. In cases where the defendant is indicted for a felony, and is convicted of an offense less than a felony, no cost shall be paid by the State to any officer.

Sec. 7. That in those counties where there shall have been cast at the next preceding presidential election less than 3000 votes the clerk of the district courts, district attorneys, county attorneys, sheriffs and constables shall receive from the State the fees and compensation in felony cases allowed under now existing laws, and are not intended to be affected by the provisions of sections 1, 2, 3, 4, 5 and 6 of this act.

Sec. 8. Each assessor of taxes shall receive the following compensation for his services, which shall be estimated upon the total values of the property assessed, as follows: For assessing the State and county tax, on all sums for the first \$2,000,000 or less, 5 cents for each \$100 of property assessed; and on all sums in excess of \$2,000,000 and less than \$5,000,000, 2½ cents on each \$100; and on all sums in excess of \$5,000,000, 1 7-10 cents on each \$100; one-half of the above fees shall be paid by the State and one-half by the county; and for assessing the poll tax, 5 cents for each poll, which shall be paid by the State. The commissioners' court may allow to the assessor of taxes such sums of money, to be paid monthly from the county treasury, as may be necessary to pay for clerical work, taking assessments and making out the tax rolls of the county, such sums so allowed to be deducted from the amount allowed to the assessor as compensation upon the completion of said tax rolls; provided, the amount allowed the assessor by the commissioners court shall not exceed the compensation that may be due by the county to him for assessing.

Sec. 9. There shall be paid for the collection of taxes, as compensation for the services of the collector, beginning with the 1st day of September of each year, 5 per cent on the first \$10,000 collected for the State, and 4 per cent on the next \$10,000 collected for the State, and 1 per cent on all collected over that sum; for collecting the county taxes, 5 per cent on the first \$5000 of such taxes collected, and 4 per cent on the next \$5000 collected, and 1½ per cent on all such taxes collected over that sum, and in counties owing subsidies to railroads, the collectors shall receive only 1 per cent for collecting such railroad tax; and in cases where property is levied upon and sold for taxes, he shall receive the same compensation as allowed by law to sheriffs or constables upon making a levy and sale in similar cases, but in no case to include commissions on such sales; and on all occupation and license taxes collected, 5 per cent.

Sec. 10. That hereafter the maximum amount of fees of all kinds that may be retained by any officer mentioned in this section as compensation for services shall be as follows: County judge, an

amount not exceeding \$2000 per annum; clerk of the county court, an amount not exceeding \$2000 per annum; county attorney an amount not exceeding \$2000 per annum; district attorney, an amount not exceeding \$2500 per annum, inclusive of the \$500 allowed by the Constitution and paid by the State; clerk of the district court, an amount not exceeding \$2000 per annum; collector of taxes, an amount not exceeding \$2000 per annum; assessor of taxes, an amount not exceeding \$2000; justice of the peace, an amount not exceeding \$1500 per annum; constables, an amount not exceeding \$1200 per annum; and in addition thereto one-fourth of the excess of the fees collected by the said officers respectively; provided, that this act shall not apply to justices of the peace and constables, except those holding office in cities of more than 15,000 inhabitants, to be determined by the next preceding city election on the basis of five inhabitants for each vote cast at such election; provided, that up to 1902 in counties in which there were cast at the last presidential election as many as 5000 votes, and thereafter in any counties shown by the national census of 1900 to contain as many as 25,000 inhabitants, the following amounts shall be allowed, viz.: County judge, an amount not exceeding \$2250 per annum; clerk of the county court, an amount not exceeding \$2250 per annum; county attorney, an amount not exceeding \$2250 per annum; district attorney, an amount not exceeding \$2500 per annum, inclusive of the \$500 allowed by the Constitution and paid by the State; clerk of the district court, an amount not exceeding \$2250 per annum; collector of taxes, an amount not exceeding \$2250 per annum; assessor of taxes, an amount not exceeding \$2250 per annum; in addition thereto one-fourth of the excess of fees collected by the said officers respectively; provided, further, that in counties containing a city of over 25,000 inhabitants, or in which there were cast at the last presidential election as many as 7500 votes or by the census of 1900 shall contain as many as 37,500 inhabitants, the following amount of fees shall be allowed, viz.: County judge, an amount not exceeding \$2500 per annum; clerk of the county court, an amount not exceeding \$2500 per annum; county attorney, an amount not exceeding \$2500 per annum; district attorney, an amount not exceeding \$2500 per annum, inclusive of the \$500 allowed by the Constitution and paid by the State; clerk of the district court, an amount not exceeding \$2500 per annum; collector of taxes, an amount not exceeding \$2500 per annum; assessor of taxes, an amount not exceeding \$2500 per annum; and in addition thereto one-fourth of the fees collected by the officers respectively; provided, that the county attorney in those counties having no district attorney, where he performs the duties of district attorney, may receive the same compensation as provided for the district attorney; provided, the maximum fixed for compensation of the district attorney shall be construed to be the amount which that officer is authorized to retain of fees allowed such officer in his district, whether composed of one or more counties; provided, that in counties where a county judge acts as superintendent of public instruction he shall receive such other salary as may be provided by the commissioners court, not to exceed the sum of \$600 per annum. The last United States census shall govern as to the population of cities.

Sec. 11. The amounts allowed to each officer mentioned in section 10 of this act may be retained out of the fees collected by him under existing laws; but in no case shall the State or the county be responsible for

the payment of any sum when the fees collected by any officer are less than the maximum compensation allowed by this act, or be responsible for the pay of any deputy or assistant. Each officer mentioned in the preceding section, and also the sheriff, shall at the close of each fiscal year, make to the district court of the county in which he resides a sworn statement showing the amount of fees collected by him during the fiscal year, and the amount of fees charged and not collected, and by whom due, and the number of deputies and assistants employed by him during the year, and the amounts paid or to be paid each; and all fees collected by officers named in section 10 of this act during the fiscal year, in excess of the maximum amount allowed and of the one-fourth of the excess of the maximum amount allowed for their services, and for the services of their deputies or assistants hereinafter provided for, shall be paid to the county treasurer of the county where the excess accrued; provided, that any officer in section 10 of this act who does not collect the maximum amount of his fees for any fiscal year, and who reports delinquent fees for that year, shall be entitled to retain when collected, such part of such delinquent fees as is sufficient to complete the maximum compensation for the year in which delinquent fees were charged, and also to retain the one-fourth of the excess belonging to him, and the remainder of the delinquent fees for that fiscal year shall be paid as hereinbefore provided for when collected.

Sec. 12. Whenever any officer named in section 10 of this act shall require the service of deputies or assistants in the performance of his duties, he shall apply to the county judge of his county for authority to appoint same, and the county judge shall issue an order authorizing the appointment of such a number of deputies or assistants as in his opinion may be necessary for the efficient performance of the duties of said officer. The officer applying for appointment of a deputy or assistant, or deputies or assistants, shall make affidavit that they are necessary for the efficiency of the public service; and the county judge may require, in addition, a statement showing the need of such deputies or assistants, and in no case shall the county judge attempt to influence the appointment of any person as deputy or assistant in any office. The maximum amount allowed for deputies or assistants for their services shall be as follows, to-wit:

First assistant or chief deputy, a sum not to exceed a rate of \$1200 per annum, others not to exceed a rate of \$900 per annum.

The county judge in issuing his order granting authority to appoint deputies or assistants, shall state in such order the number of deputies or assistants authorized and the amount to be paid each, and the amount of compensation allowed shall be paid out of the fees of office to which said deputies or assistants may be appointed, and shall not be included in estimating the maximum salaries of officers named in section 10 of this act.

Sec. 13. All fees due and not collected as shown in the report required by section 11 of this act shall be collected by the officer to whose office the fees accrued and out of such part of delinquent fees as may be due the county, the officer making such collection shall be entitled to 10 per cent of the amount collected by him, and the remainder shall be paid into the county treasury, as provided in section 11 of this act. It shall

not be legal for any officer to remit any fee that may be due under the law fixing fees.

Sec. 14. Any officer named in section 10 of this act, and also the sheriff, who shall fail to charge up the fees or costs that may be due under existing laws, or who shall remit any fee that may be due under the laws, or who shall fail to make the report required in section 11 of this act, or who shall pay his deputy or assistant a less sum than the amount specified in his sworn statement, or receive back any part of such compensation allowed such deputy or assistant, as a rebate, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in any sum not less than \$25 nor more than \$500. Each act forbidden in this section shall constitute a separate offence.

Sec. 15. It is not intended by this act that the commissioners court shall be debarred from allowing compensation for ex officio services to county officials not to be included in estimating the maximum provided for in this act, when in their judgment such compensation is necessary; provided, such compensation for ex officio services shall not exceed the amounts now allowed under the law for ex officio services; provided further, the fees allowed by law to district and county clerks, county attorneys and tax collectors in suits to collect taxes shall be in addition to the maximum salaries fixed by this act.

Sec. 16. It shall be the duty of those officials named in section 10 of this act, and also the sheriffs, to keep a correct statement of the sums coming into their hands as fees and commissions, in a book to be provided by them for that purpose, in which the officer at the time when any fees or moneys shall come into his hands shall enter the same, and it shall be the duty of the grand jury (and the district judge shall so charge the grand jury) to examine these accounts at the session of the district court next succeeding the first day of December of each year, and make a report on same to the district court at the conclusion of the session of the grand jury.

Sec. 17. The officers named in section 10 of this act, in those counties having a population of 15,000, or less, shall not be required to make a report of fees as provided in section 11 of this act, or to keep a statement provided for in section 16 of this act; the population of the county to be determined by the vote cast at the next preceding presidential election, on the basis of five inhabitants for each vote cast at such election; provided, that all district attorneys shall be required to make the reports and keep the statements required in this act.

Sec. 18. The tax collector and the tax assessor, at the time of their settlement of accounts with the Comptroller, shall file with him a copy of the sworn statement required under section 11 of this act.

Sec. 19. A fiscal year within the meaning of this act shall begin on December 1, of each year, and each officer named in section 10 of this act and also the sheriff shall file the reports and make the settlement required in this act on December 1 of each year. Whenever such officer serves for a fractional part of a fiscal year, he shall nevertheless file his report and make a settlement for such part of a year as he serves, and shall be entitled to such proportional part of the maximum allowed as the time of his services bears to the entire year. However, an incoming officer elected at the general election, who qualifies prior to December 1 next following, shall not be required to file any report or make any set-

tlement before December 1 of the following year, but his report and settlement shall embrace the entire period dated from his qualification. This act shall take effect and be in force from and after December 1, 1897.

Sec. 20. The sheriff shall not be required to include in his reports and statements required by sections 11 and 16 of this act the following items, to-wit: All actual expenses, including the per diem allowed him received from the State in conveying attached witnesses out of the county of his residence. 2d. Mileage and sums allowed by law and paid by the State as expenses for removing and conveying prisoners to and from any point beyond the county of the sheriff's residence under all legal warrants issued in felony cases. 3d. All sums received as rewards for making arrests of fugitives from justice. 4th. All sums received from the county for the safe keeping, support and maintenance of prisoners confined in jail. Nor shall said items be regarded as fees of office within the meaning of this act, to be included in making up the sheriff's maximum.

Sec. 21. Any district clerk who shall issue any attachment or subpoena for any witness except upon an order of court or upon the written application, signed and sworn to by the defendant or State's council, stating that such witness is believed to be a material witness, shall be deemed guilty of a misdemeanor, and upon conviction fined in any sum not less than \$25 and not more than \$500.

Sec. 22. The clerks of the district court shall receive for the following services the following fees:

For copy of petition, including certificate and seal, each 100 words, 15 cents; provided, whenever in any suit a certified copy of any petition or any other instrument is necessary in the district or county court, it shall be lawful for the plaintiff or defendant to prepare such true and correct copy thereof, and to submit the same to the clerk of the district or county court, as the case may be, whose duty it shall be to compare the same with the original instrument, and if found to be correct he shall attach his certificate of true copy; for such service he shall receive 50 cents for each certificate and seal, and in addition thereto the sum of 10 cents per page, 700 words to the page, for each page of said copy. Each writ of citation, 75 cents; each copy of writ of citation, 25 cents; filing of each paper 10 cents; entering appearance of each party to suit, to be charged but once, 5 cents; each final judgment or decree, 75 cents; every other order, judgment or decree, not exceeding 200 words, 25 cents; where the order, judgment or decree, whether final or not, exceeds 200 words, the additional fee for each 100 words in excess of 200 words shall be 10 cents; making out and transmitting the records and proceedings in a cause to an inferior court, for each 100 words, 15 cents; making transcript of the records and papers in any cause upon appeal or writ of error, with certificate and seal, each 100 words, 10 cents; recording return of any writ, when any such return is required by law to be returned, the amount of 50 cents; where the return exceeds 300 words, for each 100 words in excess of 300 words, 10 cents; making a copy of all records of judgment, or papers on file in his office, for any party applying for same, with certificate and seal, where copy does not exceed 200 words, for each 100 words, 20 cents; where the copy exceeds 200 words, for each additional 100 words in excess of 200 words, 10 cents.

Sec. 23. The clerks of the county court shall receive for the following services the following fees:

Each final judgment or decree, 50 cents; every other order or decree, not exceeding 100 words, 15 cents; where such other order or decree contains 100 words and not more than 200 words, 25 cents; when any final judgment or decree, or any other order or decree, exceeds 200 words, an additional fee for each 100 words in excess of 200 words of 10 cents; each appearance to be charged but once, 5 cents; each additional name inserted in a subpoena, 5 cents; approving bond, except bond for cost and notarial bond, \$1; approving notarial bond, 50 cents; copies of interrogatories, cross-interrogatories and all other papers or records required to be copied by him, including certificate and seal, where the copy does not exceed 200 words, for each 100 words, 15 cents; where the copy exceeds 200 words, for each additional 100 words in excess of 200 words, 10 cents; transcript in any case where appeal or writ of error is taken, with certificate and seal, each 100 words, 10 cents; recording all papers required or permitted by law to be recorded, not otherwise provided for, including certificate and seal, for each 100 words, 10 cents; issuing and recording marriage license, \$1; recording return of any writ, when any such return is required by law to be returned, the amount of 50 cents; where the return exceeds 300 words, for each 100 words in excess of 300 words, 10 cents; qualifying a notary public, 50 cents. No county or district clerk shall receive any compensation for assessing damages in any case.

Sec. 24. Sheriffs shall receive for the following services the following fees:

Serving each original citation in a civil suit, 75 cents; levying and returning writ of attachment or sequestration, \$2; levying each execution, \$1; return of execution, 50 cents; serving each writ of garnishment or other process not otherwise provided for, 75 cents; serving each writ of injunction, \$1; collecting money on an execution or an order of sale, when the same is made by a sale, for the first \$100 or less, 4 per cent; for the second \$100, 3 per cent; for all sums over \$200 and not exceeding \$1000, 2 per cent; for all sums over \$1000 and not exceeding \$5000, 1 per cent; for all sums over \$5000, one-half of one per cent.

Sec. 25. Justices of the peace shall receive for the following services the following fees:

For filing each paper, 5 cents; each continuance, 10 cents.

Sec. 26. All laws or parts of laws in conflict with this act are hereby repealed. It is not intended, however, by this act to repeal the present laws with regard to any fees, except where there is a conflict between the fees prescribed by now existing laws and the fees prescribed by this act.

Sec. 27. The fact that the session of the Legislature is fast growing to a close, and the importance of this bill, creates an emergency and imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this bill be put on its third reading and final passage, and it is so enacted.

Approved, June 16, 1897.

Takes effect December 1, 1897.

S. B. No. 7.]

CHAPTER 6.

An Act to prescribe and define the liability of persons, receivers or corporations operating railroads or street railways, for injuries to their servants and employes; to define who are fellow-servants, and to prohibit contracts between employer and employe, based upon the contingency of the injury or death of the employe, limiting the liability of the employer for damages.

Section 1. Be it enacted by the Legislature of the State of Texas: That every person, receiver, or corporation operating a railroad or street railway the line of which shall be situated in whole or in part in this State, shall be liable for all damages sustained by any servant or employe thereof while engaged in the work of operating the cars, locomotives or trains of such person, receiver, or corporation, by reason of the negligence of any other servant or employe of such person, receiver, or corporation, and the fact that such servants or employes were fellow-servants with each other shall not impair or destroy such liability.

Sec. 2. All persons engaged in the service of any person, receiver, or corporation, controlling or operating a railroad or street railway the line of which shall be situated in whole or in part in this State, who are intrusted by such person, receiver, or corporation with the authority of superintendence, control or command of other servants or employes of such person, receiver, or corporation, or with the authority to direct any other employe in the performance of any duty of such employe, are vice-principals of such person, receiver, or corporation, and are not fellow-servants with their co-employes.

Sec. 3. All persons who are engaged in the common service of such person, receiver, or corporation, controlling or operating a railroad or street railway, and who while so employed are in the same grade of employment and are doing the same character of work or service and are working together at the same time and place and at the same piece of work and to a common purpose, are fellow-servants with each other. Employes who do not come within the provisions of this section shall not be considered fellow-servants.

Sec. 4. No contract made between the employer and employe based upon the contingency of death or injury of the employe and limiting the liability of the employer under this act or fixing damages to be recovered shall be valid or binding.

Sec. 5. Nothing in this act shall be held to impair or diminish the defense of contributory negligence when the injury of the servant or employe is caused proximately by his own contributory negligence.

Sec. 6. The short duration of the special session of the Legislature, and the fact that the existing fellow-servant law is inadequate to accomplish its purposes, and the fact that a large portion of our citizens have no adequate remedy for personal injuries sustained, create an emergency, and an imperative public necessity exists, that the constitutional rule requiring bills to be read on three several days be, and the same is hereby suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved, June 18, 1897.

[Note.—The foregoing act passed the Senate by a vote of yeas 20, nays 5; and passed the House by a vote of yeas 64, nays 40.]

S. B. No. 17.]

CHAPTER 7.

An Act to amend Article 1331, Chapter 13, Title 30, of the Revised Statutes of Texas of 1895, relating to special verdicts.

Section 1. Be it enacted by the Legislature of the State of Texas: That Article 1331, Chapter 13, Title 30, of the Revised Civil Statutes of 1895, be amended so as to read as follows:

Art. 1331. The special verdict must find the facts established by the evidence and not the evidence by which they are established; and it shall be the duty of the court when it submits a case to the jury upon special issues to submit all the issues made by the pleading. But the failure to submit any issue shall not be deemed a ground for reversal of the judgment upon appeal or a writ of error unless its submission has been requested in writing by the party complaining of the judgment. Upon appeal or writ of error, an issue not submitted and not requested by a party to the cause, shall be deemed as found by the court in such manner as to support the judgment; provided, there be evidence to sustain such a finding.

Sec. 2. The fact that much inconvenience and intolerable delay accrue to litigants in this State, the tendency of which is to prolong litigation and crowd and burden the dockets of the courts, for want of a law authorizing a simple and expeditious method for the decisions of controverted questions of fact by special verdict, creates an imperative public necessity requiring the suspension of the constitutional rule which requires bills to be read on three several days, and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved, June 18, 1897.

[Note.—The foregoing act passed the Senate by a two-thirds vote, yeas 25, nays none; and passed the House by a two-thirds vote, yeas 86, nays 14.]

S. B. No. 15.]

CHAPTER 8.

An Act to amend Article 3051, Chapter 2, Title LVIII, of the Revised Statutes of the State of Texas, giving the Commissioner of Insurance power to examine into the condition of any insurance company of this State or any other State, and to revoke the license of such company or companies upon refusal to submit to such examination.

Section 1. Be it enacted by the Legislature of the State of Texas: That Article 3051, Chapter 2, Title LVIII, of the Revised Civil Statutes, be amended so as to read as follows:

Article 3051. The Commissioner of Insurance, for the purpose of examinations authorized by law, has power either in person or by one or more examiners by him commissioned in writing:

1. To require free access to all books and papers within this State of any insurance companies or the agents thereof doing business within this State.

2. To summon and examine any person within this State, under oath,

which he or any examiner may administer, relative to the affairs and condition of any insurance company.

3. To visit, at its principal office, wherever situated, any insurance company doing business in this State, for the purpose of investigating its affairs and condition, and shall revoke the certificate of authority of any such company in this State refusing to permit such examination.

4. He may revoke or modify any certificate of authority issued by him when any conditions prescribed by law for granting it no longer exist.

5. He also has power to institute suits and prosecutions, either by the attorney general or such other attorney as the attorney general may designate, for any violation of the law of this State relating to insurance, and he shall be made a party to any proceeding for the closing up of the affairs of any company when the same shall not be in the name of the State.

Sec. 2. All laws and parts of laws in conflict with this act are hereby repealed.

Sec. 3. The near approach of the close of the session, and the importance of the law empowering the commissioner of insurance to examine into the affairs and conditions of any company that is authorized to do business in this State, create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and it is so enacted.

Approved, June 18, 1897.

Takes effect ninety days after adjournment.

S. B. No. 21.]

CHAPTER 9.

An Act to fix the venue and regulate the proceedings in prosecutions for rape.

Section 1. Be it enacted by the Legislature of the State of Texas: Prosecutions for rape may be commenced and carried on in the county in which the offense is committed, or in any county of the judicial district in which the offense is committed, or in any county of the judicial district the judge of which resides nearest the county seat of the county in which the offense is committed. When the judicial district comprises only one county, prosecutions may be commenced and carried on in that county if the offense be committed there, or in any adjoining county. When it shall come to the knowledge of any district judge whose court has jurisdiction under this act that the offense of rape has probably been committed, it shall be his duty, immediately, if his court be in session, and if not in session, then at the first term thereafter in any county of the district, to call the attention of the grand jury thereto; and, if his court be in session but the grand jury shall have been discharged, he shall immediately recall said grand jury for the consideration of the accusation. Prosecutions for rape shall take precedence of all cases in all courts, and the district courts are hereby authorized and directed to change the venue in such cases whenever it shall be necessary to secure a speedy trial.

Sec. 2. The fact that there is no adequate law in this State for the suppression of rape creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved, June 18, 1897.

[Note.—The foregoing act passed the Senate by a vote of yeas 15, nays 6; and passed the House, vote not given.]

S. S. B. No. 2.]

CHAPTER 10.

An Act making appropriations for the support of the State Government, for the years beginning March 1st, 1897, and ending February 28, 1899, and for other purposes.

Section 1. Be it enacted by the Legislature of the State of Texas: That the following sums of money, or so much thereof as may be necessary, are hereby appropriated out of any money in the treasury not otherwise appropriated for the support of the State government, for the years beginning March 1st, 1897, and ending February 28th, 1899, and for other purposes:

Executive Office.

	Year ending—	
	Feb. 28, '98.	Feb. 28, '99.
Salary of Governor.....	\$4,000	\$4,000
Salary of private secretary.....	1,700	1,700
Salary of stenographic clerk.....	1,100	1,100
Salary of porter.....	360	360
Salary of State Revenue Agent.....	1,800	1,800
Traveling and other necessary expenses of State Revenue Agent	300	300
Payment of rewards and other expenses necessary in the enforcement of the law.....	7,250	7,250
Books and stationery.....	300	300
Freight, postage, and telegraphing.....	500	500
Ice	36	36
Office furniture	100	100
Contingent expenses, including new typewriter.....	200	100
Salaries of Board of Pardons.....	2,400	2,400

Mansion and Grounds.

For Governor's Mansion, and furniture, including repairs to mansion and improvements to grounds surrounding mansion, and contingent expenses; to be expended in two years.....	\$2,500	
Laborer, and keeping up grounds surrounding mansion ..	700	\$700
Water and Ice.....	200	200
Fuel and Lights.....	450	450
Contingent expenses	200	200

Department of State.

	Year ending—	
	Feb. 28, '98.	Feb. 28, '99
For salary of Secretary of State.....	\$2,000	\$2,000
Salary of chief clerk.....	1,550	1,550
Salary of two assistant clerks.....	2,280	2,280
Salary of one assistant clerk.....	950	950
Salary of one stenographic and general clerk.....	900	900
Salary of porter.....	300	300
Salary of extra clerk to copy laws.....	250	
Freight, postage and express.....	1,250	1,250
Books and stationery.....	400	400
Furniture and files.....	50	50
Contingent expenses.....	100	100

Comptroller's Office.

Salary of Comptroller.....	\$2,500	\$2,500
Salary of chief clerk.....	1,700	1,700
Salary of chief bookkeeper.....	1,550	1,550
Salary of assistant bookkeeper.....	1,300	1,300
Salaries of two sheriff's clerks, witnesses and attorneys' accountants.....	2,600	2,600
Salary of clerk for registering city, county and other bonds.....	1,080	1,080
Salary of receiving clerk.....	1,140	1,140
Salary of warrant clerk.....	1,300	1,300
Salary of assistant warrant clerk.....	1,080	1,080
Salary of bookkeeper in warrant department.....	1,080	1,080
Salaries of two corresponding clerks.....	2,280	2,280
Salary of chief tax clerk.....	1,350	1,350
Salary of assistant tax clerk.....	1,080	1,080
Salary of redemption clerk.....	1,300	1,300
Salary of assistant redemption clerk.....	1,080	1,080
Salary of examining clerk.....	1,300	1,300
Salary of assistant examining clerk.....	1,080	1,080
Salary of auditing clerk.....	1,250	1,250
Salary of assistant auditing clerk.....	1,080	1,080
Salary of deposit warrant clerk.....	1,140	1,140
Salaries of twelve first assistant clerks.....	12,000	12,000
Salaries of nine second assistant clerks.....	8,100	8,100
Salary of messenger.....	300	300
Salary of porter.....	420	420
Salary of night watchman.....	150	
Postage, telegraphing, express, office furniture and contingent expenses, the latter not to exceed \$200.	3,500	3,500
Books and stationery.....	1,500	1,500
Binding assessment rolls and tax collectors' reports.	1,000	1,000
Roller case and shelving.....	1,200	

Treasury Department.

	Year ending—	
	Feb. 28, '98.	Feb. 28, '99.
Salary of Treasurer.....	\$2,500	\$2,500
Salary of chief clerk.....	1,700	1,700
Salary of bookkeeper.....	1,450	1,450
Salary of assistant bookkeeper.....	1,080	1,080
Salary of receiving clerk.....	1,350	1,350
Salary of corresponding clerk.....	1,140	1,140
Salaries of two bookkeepers in Land Department, at \$1300 each	2,600	2,600
Salary of examining clerk.....	1,200	1,200
For salaries of five assistant bookkeepers in Land Department, two at \$1100 each, and three at \$1000 each	5,200	5,200
Salary of collector, general office assistant, messenger and porter.....	600	600
Books and stationery.....	400	400
Postage ..	750	750
Contingent expenses	100	100
Keeping in repair time-locks, combinations and vaults, or so much thereof as may be necessary....	150	150
Salary of night watchman.....	600	600
Office furniture and files.....	150	150
For refunding to purchasers, assignees or lessees of public domain, public school, university or asylum lands, the money paid by them into the State Treasury in accordance with any of the laws of this State, and where, in accordance to the certificate of the Commissioner of the General Land Office, made under the provisions of the said chapter CXI, as amended by act of the 24th legislature in H. B. 358, it is shown that the title can not issue or possession pass, because of conflict, erroneous sales, and other causes patents can not issue, to be paid out of the respective funds to which said payments were credited, said claims to be approved by the Attorney General and the Governor, to be expended within two years	10,000	
To pay C. C. Gibbs, trustee, or his order, out of the permanent school fund the sum of \$74,560, and out of the general fund the sum of \$74,560, for the purpose of refunding the amount paid into the Treasury of the State, on or about the 3rd day of January, 1891, for the purchase, under applications made by E. M. Bacon and E. G. Graves, of 291 sections of land, of 640 acres each, being surveys numbered from 1 to 291, both inclusive, in Block G. Borden and Scurry counties; 58 sections, of 640 acres each, being surveys numbered from 1 to 58, both inclusive, in block M, in Borden and Scurry counties; and 117 sections, of 640		

Year ending—
Feb. 28, '98. Feb. 28, '99.

acres each, being surveys numbered 1 to 117, both inclusive, in block B, in Scurry county, being the lands recovered by the State by a judgment against the said E. M. Bacon and E. G. Graves, and C. C. Gibbs, trustee, rendered on the 22nd day of December, 1891, by the district court in and for Mitchell county, Texas, and affirmed on appeal, amounting in the aggregate to the sum of \$149,120

But the said sums shall not, nor shall any part thereof, be paid until Frederick P. Olcott, the purchaser under decree of foreclosure, rendered by the Circuit Court of the United States for the Eastern District of Texas, at Galveston, of lands of the Houston and Texas Central Railway Co., shall execute to the State of Texas and deliver to the Comptroller a release in writing unto the State of Texas, of any and all claims by him and those he represents, in any manner, in or to any of the above named sections of land; said release to be approved by the Attorney General, and to inure to the benefit of the State of Texas, and any persons claiming any of said lands under said State, and said release to settle forever the claims of the Houston and Texas Central Railway Company and Frederick P. Olcott and others interested with him as mortgagees in any of said above described 466 sections of land; and upon the delivery of said release, duly executed and acknowledged by said Olcott, to the Comptroller, the Comptroller shall draw his warrant upon the State Treasurer in favor of C. C. Gibbs, trustee, for the amount of money hereby appropriated.

General Land Office.

Salary of Commissioner	\$2,500	\$2,500
Salary of chief clerk	1,700	1,700
Salary of first assistant chief clerk.....	1,400	1,400
Salary of receiving clerk.....	1,350	1,350
Salary of Spanish clerk	1,350	1,350
Salary of legal examiner.....	1,500	1,500
Salary of corresponding clerk.....	1,140	1,140
Salaries of two patent clerks.....	2,280	2,280
Salaries of two abstract clerks.....	2,160	2,160
Salaries of two file clerks.....	2,280	2,280
Salary of one file-room clerk	1,140	1,140
Salaries of two transcript clerks.....	2,160	2,160
Salary of chief draughtsman	1,500	1,500
Salaries of five compiling draughtsmen.....	6,500	6,500
Salaries of three assistant compiling draughtsmen..	3,300	3,300
Salary of letter register	1,100	1,100

	Year ending—	
	Feb. 28, '98.	Feb. 28, '99.
Salary of index clerk.....	\$1,080	\$1,080
Salary of night watchman.....	600	600
Salary of porter and janitor	420	420
Postage, telegraphing and contingent expenses.....	1,800	1,800
Stationery, books and fixtures	1,500	1,500
Wood	200	200
Lithographing and miscellaneous	450	450
Water and repairs to fixtures	300	300
Repairs to building	250	250
To pay for certified copies of judgments obtained in favor of the State against the several railroad companies in the recovery of lands where the certificates were issued in whole or in part for sidings and switches, and in the Bacon and Graves case if necessary; provided, the Attorney General shall approve the cost bill of the clerks for such copies, there is appropriated \$750, or so much thereof as may be necessary.....	750	

School Land Department.

Salary of chief clerk	1,400	1,400
Salaries of three lease clerks	3,300	3,300
Salaries of two corresponding clerks.....	2,200	2,200
Salary of one draughtsman.....	1,140	1,140
Salary of bookkeeper	1,300	1,300
Salary of file clerk	1,100	1,100
Salaries of two sales clerks.....	2,280	2,280

Provided, that the Land Commissioner may discharge any clerk not needed in any particular department and apply the money to pay his salary for the purpose of employing help in any other department where additional help may be required; provided, further, that no more shall be paid for such help than is provided for the compensation of clerks in the department to which the extra help may be assigned; and provided, further, that if any funds appropriated for this department be unexpended, the same, or so much thereof as may be necessary, may be used for the purchase or repair of typewriting machine.

Attorney General's Office.

Salary of Attorney General	\$2,000	\$2,000
And the further sum each year, or so much thereof as may be necessary, to pay such fees as may be prescribed by law	2,000	2,000
Salary of first office assistant	2,500	2,500
Salary of second office assistant	2,000	2,000
Salary of third office assistant	2,000	2,000

	Year ending—	
	Feb. 28, '98.	Feb. 28, '99.
Salary of stenographic and corresponding clerk....	\$950	\$950
Salary of filing and recording clerk.....	950	950
Stationery, postage and telegraphing.....	500	500
Law books and periodicals.....	200	200
Cost of depositions and procuring evidence.....	400	400
Porter and messenger	360	360
Actual traveling expenses incurred by Attorney General, or any of his assistants, in giving attention to the State's business pending elsewhere than in the courts held in the city of Austin, vouchers to be made under official certificates.....	600	600
Contingent expenses	100	100

Court of Criminal Appeals.

Salaries of three judges	\$12,000	\$12,000
Salary of stenographer	950	950
Sheriff's attendance on the court.....	200	200
Postage	150	150
Contingent expenses	200	200
Fuel and lights	100	100
Law books, to be selected by the presiding judge....	150	150
Record books and stationery.....	400	400
Salary, fees and traveling expenses of Assistant Attorney General	3,000	3,000
Salary of porter	360	360
Telegraphing and contingent expenses for Assistant Attorney General	50	50
Clerks' fees in criminal cases, or so much thereof as may be necessary	3,000	3,000

Supreme Court.

Salaries of three judges.....	\$12,000	\$12,000
Salary of clerk and librarian.....	2,500	2,500
Salary of stenographer and law clerk.....	950	950
Salary of bailiff	150	150
Porter's hire for judge's and consulting room.....	360	360
Porter's hire for court room, library and clerk's office	360	360
Record books and stationery.....	500	500
Postage	150	150
Contingent expenses	150	150
Purchase of books for Supreme Court library, and books for consultation room	1,250	1,250

Department of Education.

Salary of Superintendent	\$2,500	\$2,500
Salary of chief clerk.....	1,550	1,550
Salary of statistical clerk.....	1,140	1,140
Salary of auditing and index clerk	1,140	1,140

	Year ending—	
	Feb. 28, '98.	Feb. 28, '99.
Salary of stenographer	\$950	\$950
Salary of corresponding and examining clerk.....	1,140	1,140
Salary of corresponding and general clerk.....	1,080	1,080
Salary of mailing and bank clerk.....	900	900
Salary of porter	300	300
Traveling expenses of Superintendent, visiting schools and teachers' and trustees' meetings, and when on business relating to school interests.....	300	300
Postage, stationery, office furniture, files, binding reports and other books and pamphlets.....	1,100	1,100
Express, freight, telegraphing and incidental expenses	450	450

Railroad Commission.

Salaries of three Commissioners.....	\$12,000	\$12,000
Salary of secretary	1,800	1,800
Salary of one rate clerk.....	1,500	1,500
Salary of one general clerk.....	1,200	1,200
Pay of experts and other necessary expenses.....	12,040	8,040
To pay necessary expenses of Commissioners and experts in making investigations and enquiries, to be paid on verified vouchers approved by the Chairman of the Railroad Commission.....	1,000	
Sheriffs' and witnesses' fees, and mileage.....	500	500
Transportation of the members of the commission and clerks	250	250
Postage, stationery, books, telegraphing and express charges	500	500
Furniture, fixtures and files	100	100
Contingent expenses	100	100
Salary of porter	300	300

Department of Agriculture, Insurance, Statistics and History.

Salary of Commissioner	\$2,000	\$2,000
Salary of chief clerk.....	1,700	1,700
Salary of bookkeeper, stenographer and statistical clerk	1,140	1,140
Salary of agricultural clerk	1,140	1,140
Salary of historical clerk	1,140	1,140
Salary of porter	360	360
Subscription to newspapers and magazines, and binding	100	100
Books and book cases and shelving for State Library, Collecting historical data	450	450
Contingent expenses and telephone	150	150
Contingent expenses and telephone	100	100
Expenses of Commissioner in enforcing insurance laws	500	500
Postage, stationery and express.....	400	400
Book cases and shelving.....	100	100

The University

Year ending—
Feb. 28, '98. Feb. 28, '99

For the support and maintenance of the University of Texas, including such repairs and improvements and extensions as the board of regents may deem necessary, all the available fund, including under this head the interest from its land notes, the income from its leases, and the fees from its students, to be under the control of the Board of Regents, less the appropriation made for the Agricultural and Mechanical College; all yearly fees collected from students, to be fixed by the Regents, to be not less than \$10 per year for academic department from each student, with such laboratory fees as the Regents shall fix, and not less than \$50 per year from each student in the law department.

To supplement the available fund in the support of the main university, from the general revenue..	\$32,500	\$32,500
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Medical Department, Galveston.

For support and maintenance out of general revenue	\$35,500	\$35,500
For repairs out of general revenue, to be expended in two years	3,000	

In addition to the above revenue, the Board of Regents shall charge each student in medicine and pharmacy the matriculation fee of not less than \$50 per year, payable in advance, also a fee of five dollars annually, payable in advance, for each laboratory attended, to cover the cost of material used; the proceeds of the above fees shall also be appropriated and supplemented to any of the above named items for the maintenance and support of the said medical branch of the University, and expended in any manner the Board of Regents may deem for the best interest of the medical college.

Court of Civil Appeals—First District.

Salaries of three judges	\$10,500	\$10,500
Salary of bailiff	100	100
Salary of porter	300	300
Postage	75	75
Record books and stationery	200	200
Contingent expenses, including ice, lights and fuel..	150	150
Salary of stenographer and typewriter.....	600	600
Books for library.....	250	250

Court of Civil Appeals—Second District.

	Year ending—	
	Feb. 28, '98.	Feb. 28, '99.
Salaries of three judges.....	\$10,500	\$10,500
Salary of bailiff	100	100
Salary of porter	300	300
Postage	75	75
Record books and stationery.....	200	200
Contingent expenses, including ice, fuel and lights..	150	150
Salary of stenographer and typewriter.....	600	600
Books for library	250	250

Court of Civil Appeals—Third District.

Salaries of three judges	\$10,500	\$10,500
Salary of bailiff	100	100
Salary of porter	300	300
Record books and stationery	200	200
Postage	75	75
Contingent expenses, including ice, lights and fuel..	100	100
Salary of stenographer and typewriter	600	600

Court of Civil Appeals—Fourth District.

Salaries of three judges	\$10,500	\$10,500
Salary of bailiff	100	100
Salary of porter	300	300
Postage	75	75
Books and stationery	200	200
Contingent expenses, including ice, fuel and lights..	150	150
Salary of stenographer and typewriter	600	600
Books for library	250	250

Court of Civil Appeals—Fifth District.

Salaries of three judges	\$10,500	\$10,500
Salary of bailiff	100	100
Salary of porter	300	300
Postage	75	75
Record books and stationery	200	200
Contingent expenses	100	100
Salary of stenographer and typewriter	600	600
Books for library	250	250

Judiciary Department.

Salaries of fifty-four district judges.....	\$133,750	\$135,000
Salaries of thirty-eight district attorneys.....	19,000	19,000
Salary of criminal district attorney.....	500	500
Salaries of two criminal district judges.....	5,000	5,000
Fees and costs of sheriffs, clerks and attorneys in felony cases	300,000	300,000

Nor shall the Comptroller approve the account of any sheriff for conveying a convict from the peni-

Year ending—
Feb. 28, '98. Feb. 28, '99.

tentiary to any county for trial on a felony charge, which if convicted would receive a sentence concurrent with the sentence he was already serving; nor shall such attorneys, clerks or sheriffs be entitled to fees and costs in more than one case, where the defendant is convicted in two or more cases, unless the judgment in the second and subsequent convictions shall be that the punishment shall begin when the judgment and sentence in the preceding conviction have ceased to operate; nor shall the district judge approve accounts for such fees and costs.

To pay costs in civil cases when such costs are adjudged against the State, or when such costs can not be recovered from the defendant, in which only such costs as are incurred by the State in such civil cases, shall be paid out of this fund....

\$2,500 \$2,500

Expenses of attached witnesses; provided, that neither the district judge nor the Comptroller shall approve the claim of any person attached as a witness while under indictment for a felony in the same court in which he is attached to testify.....

50,000 50,000

Salary of Supreme Court reporter.....

3,000 3,000

Salary of Court of Criminal Appeals reporter.....

3,000 3,000

For compensation for assistant Supreme Court reporter or reporters of Courts of Civil Appeals....

2,500 2,500

Fees of county judges, justices of the peace, sheriffs and constables in examining trials.....

10,000

Pensions.

Pay of veterans under general laws.....

\$51,000 \$51,000

Mrs. S. L. Cole, special pensioner.....

150 150

P. H. Bell, special pensioner.....

150 150

Mme. Candelaria, special pensioner

150 150

Public Debt.

For interest on public debt.....\$224,420 20 \$224,420 20

Miscellaneous.

To pay for surveying lands set apart for branch University of colored people, or so much thereof as may be necessary

..... \$1,600

For relief of liquor dealers

\$5,000 5,000

Refunding to Allison, a State convict.....

225

To pay sheriff of Hardeman county, Texas, for boarding J. D. Adams, a prisoner convicted of murder in Greer county, and transferred to the jail of Hardeman county, for safe keeping, by order of the district judge, pending appeal to the Court of Criminal Appeals, Texas, or so much as may be necessary

350

State Orphan Asylum.

Year ending—
Feb. 28, '98. Feb. 28, '99.

All of the available fund belonging to the Asylum for the support and maintenance, in addition thereto from the general revenue the following:

Salary of superintendent	\$1,000	\$1,000
Salary of matron	600	600
Salaries of six teachers	2,400	2,400
Salaries of three cooks	600	600
Salary of one baker	300	300
Salaries of three laundresses	720	720
Salaries of two seamstresses	480	480
Salary of one physician	660	660
Salary of farm labor	550	550
Salary of trained nurse	360	360
Salaries of six assistant nurses	1,200	1,200
Salary of night watchman	360	360
Maintenance	15,000	15,000
Fuel	500	500
Postage and stationery	100	100
Bedding	600	600
School books, maps, etc.	400	400
Window curtains, towels and table linen	200	200
Transportation	150	150
Telephone	60	60
Tableware, crockeryware and hardware	200	200
Electric lights	550	550
Erecting school building	12,000	
Enlarging dining room	2,500	
Fire protection .....	.....	2,000
Erecting hospital .....	.....	4,000

State Lunatic Asylum.

Salary of superintendent	\$2,000	\$2,000
Salary of first assistant physician	1,250	1,250
Salary of second assistant physician	1,250	1,250
Salary of bookkeeper and steward	950	950
Salary of matron	600	600
Salary of apothecary	550	550
Salary of supervisor	480	480
Salary of supervisoress	480	480
Salary of outside supervisor	550	550
Salary of chief engineer	720	720
Salary of assistant engineer	480	480
Salary of gardener	300	300
Salary of chief cook	550	550
Salary of first assistant cook	300	300
Salaries of three second assistant cooks	720	720
Salary of baker	480	480
Salary of carpenter	540	540
Salary of assistant carpenter and blacksmith	400	400

	Year ending—	
	Feb. 28, '98.	Feb. 28, '99.
Salaries of two firemen	\$600	\$600
Salaries of seven night watchmen.....	2,100	2,100
Salary of head laundress	360	360
Salary of assistant head laundress.....	300	300
Salaries of six laundresses.....	1,440	1,440
Salary of head seamstress.....	300	300
Salaries of six seamstresses	1,440	1,440
Salaries of fifty attendants, or as many thereof as may be necessary, at not to exceed \$20 per month,	12,000	12,000
Salaries of two trained nurses.....	720	720
Salaries of three farm hands, at \$15 per month....	540	540
Salary of dairyman	360	360
Salary of plasterer and painter.....	480	480
Salary of storekeeper	420	420
Salaries of three dining-room girls and chamber- maids, at not to exceed \$20 per month.....	720	720
Salary of scavenger	240	240
Groceries, fuel, light and water, including pay of Board of Managers at \$5 per month for attend- ance upon meetings of the board, and mileage....	62,500	62,500
Dry goods and clothing	12,000	12,000
Furniture and beds	1,000	1,000
General repairs	3,000	3,000
Transportation of patients	750	750
Medical stores and surgical instruments	1,250	1,250
Literature and amusement	600	600
Contingent expenses	500	500
Cows, horses, mules and hogs.....	250	
Hacks, wagons, harness and farm tools.....	200	
Trees, seeds and flowers.....	75	75
Laundry machinery	300	300
Repairing roofs	1,000	500
Engineers' and carpenters' tools.....	150	

Southwestern Insane Asylum.

Salary of superintendent	\$2,000	\$2,000
Salary of assistant superintendent.....	1,250	1,250
Salary of bookkeeper and steward.....	950	950
Salary of engineer and plumber.....	720	720
Salary of matron and supervisoress.....	600	600
Salary of ward supervisor	480	480
Salary of carpenter	480	480
Salary of outside supervisor.....	480	480
Salary of chief cook	480	480
Salary of baker	480	480
Salary of head laundress.....	360	360
Salaries of three laundresses	720	720
Salary of gardener	300	300
Salary of dairyman	300	300
Salary of first assistant cook.....	300	300

	Year ending—	
	Feb. 28, '98.	Feb. 28, '99
Salary of second assistant cook.....	\$240	\$240
Salary of head seamstress.....	300	300
Salary of assistant seamstress.....	240	240
Salaries of two firemen.....	600	600
Salaries of two night watchmen.....	600	600
Salaries of two farm hands, at \$15 per month.....	360	360
Salaries of twenty-two attendants (or as many there- of as may be necessary), at not to exceed \$20 per month	5,280	5,280
Groceries, fuel, lights and water, including pay of the Board of Managers at \$5 per month for at- tendance upon meetings of the board, and mile- age	25,000	25,000
Dry goods and clothing.....	3,500	3,500
Furniture and bedding	1,000	1,000
Transportation of patients	400	400
Medical stores and surgical instruments.....	500	750
General repairs and preservation.....	1,000	1,000
Contingent expenses	300	400
Expenses Board of Managers to Austin.....	15	
Literature and amusements	400	400
Trees, seeds, farm machinery and tools.....	200	200
Wagons, hacks and harness.....	200	
Painting roof and standpipe	500	
Cows, horses, mules and hogs.....	200	200
Engineer's and carpenter's tools.....	100	
Bridges, culverts and grounds.....	150	150
Anchoring and repairing ward buildings, to be used in two years	2,000	
Erecting additional buildings under the supervision of a competent architect, to be appointed by the Governor of Texas, the salary of architect to be paid out of this appropriation.....	75,000	
Maintenance of inmates to be received in new build- ings.....	.....	20,000
Purchasing new boiler and piping and necessary re- pairs for connection and fixtures.....	1,500	

North Texas Insane Asylum.

Salary of superintendent.....	\$2,000	\$2,000
Salary of first assistant physician.....	1,250	1,250
Salary of second assistant physician.....	1,250	1,250
Salary of bookkeeper and steward.....	950	950
Salary of matron.....	600	600
Salary of apothecary	550	550
Salary of ward supervisor	480	480
Salary of head farmer and outside supervisor.....	480	480
Salary of storekeeper.....	480	480
Salary of head engineer and plumber.....	720	720
Salary of assistant engineer and electrician.....	480	480

	Year ending—	
	Feb. 28, 1898.	Feb. 28, '99
Salary of supervisoress	\$480	\$480
Salary of head carpenter	540	540
Salary of assistant carpenter	360	360
Salaries of three firemen	900	900
Salary of painter and plasterer	480	480
Salary of gardener	320	320
Salary of assistant gardener and florist	280	280
Salary of scavenger	240	240
Salaries of three farm hands	540	540
Salary of head cook	550	550
Salary of first assistant cook	300	300
Salary of second assistant cook	240	240
Salary of third assistant cook	240	240
Salary of baker	480	480
Salary of assistant baker	240	240
Salary of head laundress	360	360
Salaries of eight laundresses	1,920	1,920
Salary of head seamstress	300	300
Salaries of seven seamstresses	1,680	1,680
Salaries of sixty-three attendants	15,120	15,120
Salaries of four special nurses	1,200	1,200
Salary of outside watchman	360	360
Salaries of five night watchmen	1,800	1,800
Salary of dairyman	300	300
Salary of one assistant dairyman	240	240
Groceries, fuel, lights and water	70,000	70,000
Transportation of patients	750	750
Contingent expenses	750	750
Dry goods and clothing	14,500	14,500
Medical stores and surgical instruments	1,500	1,500
Trees, seeds and stocks	250	250
Wagons, hacks and harness	300	
Carpenter's tools	100	
Engineer's tools	50	
Mowers, plows and farm implements	250	250
Furniture and beds	1,500	2,000
Expenses Board to Austin	37 50	
General repairs and painting roof, to be expended in two years	5,000	
Purchase of mules, horses, cows and swine	250	250
Literature and amusement	500	500
Pipes and piping	1,000	
Basement floors (tiling or concrete)		2,000
Bridges, culverts and grounds	300	
Laundry machinery	250	250
Repairing standpipe		100
Fencing	100	100
Hose for fire department	500	
New roof on administration building	1,000	
Laundry floor	500	
Grated doors	500	

	Year ending—	
	Feb. 28, '98.	Feb. 28, '99.
Erection of male hospital.....	\$10,000	
Erection of an associated dining hall and employes' room, to be done under the supervision of a competent architect, to be appointed by the Governor of Texas, salary of such architect to be paid out of the appropriation	30,000	
Additional appropriations made for North Texas Insane Asylum to comport with provisions made for additional buildings for the accommodation of more inmates:		
Groceries, etc.	3,000	\$12,000
Dry goods and clothing.....	750	3,000
Beds and furniture	1,000	
Assistant supervisor	90	360
Salaries of five attendants.....	300	1,200
Salaries of three laundresses.....	150	600

Provided, that the interest on all securities held by the Lunatic Asylum Fund is hereby appropriated in part payment of the appropriations of the three Lunatic Asylums, the remainder of the appropriations to be paid out of the general revenue. All moneys now in or which may hereafter be paid into the State Treasury for the board and treatment of nonindigent patients and from sales of personal property of the three lunatic asylums, shall be paid over to the State Treasurer monthly and credited by him to the general revenue account.

Blind Asylum.

Salary of superintendent	\$2,000	\$2,000
Salary of oculist	900	900
Salary of bookkeeper and steward.....	720	720
Salary of first matron.....	440	440
Salary of second matron	440	440
Salaries of principal teacher and six assistant teachers in literary department, teacher of kinderten and physical culture, and four teachers in music department	8,520	8,520
Salary of one music reader.....	540	540
Salary of teacher of sewing, crochet and wool work	400	400
Salary of teacher of trades.....	360	360
Salary of assistant teacher of trades.....	315	315
Salary of sick nurse and monitress for large girls....	270	270
Salary of sick nurse and monitor for large boys....	270	270
Salary of monitress and seamstress for small girls..	180	180
Salary of monitress and seamstress for small boys..	180	180
Salary of night watchman.....	500	500
Salary of engineer and electrician.....	900	900
Salary of hostler and yard man.....	300	300
Salaries of four cooks and one baker.....	900	900

	Year ending—	
	Feb. 28, '98	Feb. 28, '99.
Salaries of head laundress and three assistants....	800	800
Salary of housekeeper for large boys' department....	180	180
Salaries of three chambermaids.....	472	472
Salaries of four dining-room girls.....	630	630
Salaries of five trustees.....	300	300
Transportation of indigent pupils.....	1,200	1,200
Clothing for indigent pupils.....	900	900
Groceries, provisions, printing necessary for school, labor, contingent expenses and miscellaneous....	16,500	16,500
Ordinary repairs	750	750
Relaying and casing heating pipes.....	500	
Removing overhead plastering, and ceiling old build- ing	1,000	

Deaf and Dumb Asylum.

Salary of superintendent.....	\$2,000	\$2,000
Salary of principal, educational department.....	1,350	1,350
Salary of first academic teacher.....	950	950
Salaries of two second academic teachers.....	1,700	1,700
Salaries of two teachers.....	1,200	1,200
Salaries of four teachers.....	2,400	2,400
Salary of five teachers.....	2,400	2,400
Salary of first oral teacher.....	720	720
Salary of second oral teacher.....	660	660
Salary of third oral teacher.....	480	480
Salary of two oral teachers.....	800	800
Salary of art teacher.....	600	600
Salary of secretary and steward.....	800	800
Salary of first matron.....	480	480
Salary of second matron.....	480	480
Salary of monitor	480	480
Salary of monitress for small girls.....	280	280
Salary of monitress for small boys.....	280	280
Salary of instructor in printing.....	800	800
Salary of instructor in shoemaking.....	660	660
Salary of instructor in carpentry.....	660	660
Salary of instructor in tailoring.....	550	550
Salary of teacher of sewing and dressmaking.....	300	300
Salary of engineer.....	800	800
Salary of night watchman.....	360	360
Salary of farmer and gardner.....	300	300
Salaries of two laborers.....	360	360
Salaries of five laundresses.....	900	900
Salary of baker.....	360	360
Salaries of two cooks.....	550	550
Supplies, provisions, etc.....	22,500	22,500
Water and electric lights.....	1,200	1,200
For furnishing	500	500
Clothing and transportation for indigent pupils..	1,500	1,500
Art material and supplies.....	100	100

	Year ending—	
	Feb. 28, '98.	Feb. 28, '99.
Repairs on main building.....	\$4,000	
Salaries of five trustees.....	300	\$300

Provided, that the interest on all securities held by the Deaf and Dumb and Blind Asylum funds are hereby appropriated in part payment of the above appropriations, the remainder to be paid out of the general revenue.

House of Correction and Reformatory.

Salary of superintendent.....	\$1,800	\$1,800
Salary of farm supervisor.....	500	500
Salary of engineer.....	600	600
Salary of assistant engineer.....	300	300
Salary of bookkeeper and steward.....	800	800
Salaries of two teachers.....	960	960
Salaries of four night guards.....	1,440	1,440
Salaries of ten day guards.....	3,000	3,000
Salary of baker.....	360	360
Salary of physician.....	400	400
Salary earned by chaplain, one-third year, 1897....	66	
Salaries of three trustees.....	300	300
Maintenance.. . . .	16,000	16,000
Fuel	1,200	1,200
Books and slates	100	100
Medicine	200	200
Postage and express	150	150
Discharge and transportation of discharged inmates.	800	800
Literature and library for inmates.....	150	150
Farm implements...	200	200
Bathing pool and contingent expenses.....	500	500

Provided that the products and labor of said reformatory are hereby appropriated in part payment of the above appropriation, the remainder to be paid out of the general revenue; provided further, that the superintendent of the reformatory is hereby required to rent sufficient land to keep all the inmates employed.

Confederate Home.

For maintenance of inmates, including compensation as prescribed by law to the members of the Board of Directors for attending meetings of the board, and mileage

	\$28,000	\$32,000
Salary of superintendent	1,500	1,500
Salary of quartermaster.....	540	540
Salary of surgeon.....	800	800
Medicine	400	400
Salary of chief cook.....	480	480
Salary of assistant cook.....	240	240

	Year ending—	
	Feb. 28, '98.	Feb. 28, '99.
Salaries of waiters, who shall do all the work required of them by the superintendent.....	\$720	\$720
Salaries of nurses, who shall do all the work required of them by the superintendent and surgeon.....	1,440	1,440
Salary of one helper.....	240	240
Salary of laundress.....	240	240
Salary two assistant laundresses.....	360	360
Transfer of inmates to their homes.....	200	200
Salary of night watchman.....	300	300
For moving stables.....	100	
For fire hose.....	335	
Dining-room and kitchen for hospital, and for necessary furniture therefor.....	1,500	
Kitchen for main building.....	900	
Salary of hospital cook.....	360	360
Salary of assistant hospital cook.....	240	240
Salary of matron.....	300	300
Building and furnishing one cottage, to be used when needed.....	2,250	
Laundry appliances ..	300	

Provided, that the money now to the credit of the available Confederate Home fund is hereby appropriated in part payment of the above appropriation, the remainder to be paid out of general revenue.

Quarantine Department.

For maintaining quarantine department.....	\$33,000	\$33,000
For moving quarantine station at Sabine Pass.....	3,000	
Maintenance of a quarantine guard at Corpus Christi Pass, to be under the supervision of the quarantine physician at Harbor Island, said guard to furnish his own boat and supplies, at a salary of \$75 per month, for eight months each year.....	600	600

Deaf, Dumb and Blind Asylum for Colored Youths.

Salary of superintendent.....	\$1,500	\$1,500
Salary of principal teacher.....	675	675
Salaries of three class room teachers and one music teacher ..	1,800	1,800
Salary of shoemaker.....	450	450
Salary of seamstress.....	300	300
Salary of matron.....	360	360
Salary of oculist.....	600	600
Salary of night watchman.....	300	300
Salary of engineer and plumber.....	500	500
Salary of cook and assistant.....	500	500
Salary of farmer and gardner.....	240	240
School apparatus ..	125	125
Transportation of indigent pupils.....	400	400

	Year ending—	
	Feb. 28, '98.	Feb. 28, '99.
Clothing for indigent pupils.....	\$450	\$450
General repairs and erection of new building, to be done under the supervision of a competent architect, to be appointed by the Governor or Texas; salary of such architect to be paid out of this appropriation ..	12,000	
Furniture ..	200	200
Tools and apparatus for shoe shop.....	25	25
Stationery and postage.....	50	50
Salary of monitor.....	225	225
For groceries, provisions and miscellaneous, including pay of members of the board at \$5 per month for attending meetings of the board, and mileage,	8,000	8,000

Sam Houston Normal Institute.

For support and maintenance.....	\$37,500	\$37,500
For library apparatus, repairs and improvements....	2,000	2,000

State Penitentiaries.

For conveying convicts to the penitentiaries and reformatory ..	\$18,000	\$18,000
Penitentiary library	250	250
Traveling expenses of superintendent.....	500	500
All the proceeds of convict labor, and in addition thereto for making up deficiencies in monthly expenses and to purchase material to carry on prison industries, which shall be paid out of the treasury on the warrant of the Comptroller, whenever demanded by the financial agent of the State penitentiaries, to be used, if needed, for each year; provided, that this sum shall not be drawn out of the treasury except as needed.....	40,000	40,000

Agricultural and Mechanical College.

For the support and maintenance of the Agricultural and Mechanical College, out of the general revenue \$19,500, and out of the available university fund, each year, \$500.....	\$20,000	\$20,000
Student labor fund	5,000	5,000
For experimental station.....	2,500	2,500
Building and equipping mess hall.....	25,000	
Repairs on buildings, to be expended in two years....	5,000	
Building two residences for professors.....	3,000	

In addition to the above, the interest on \$209,000 of state bonds held by the Agricultural and Mechanical College fund is hereby further appropriated for the support of this institution; provided, that the board of directors of the Agricultural and Mechanical College of Texas shall include in their reports

Year ending—
Feb. 28, '98. Feb. 28, '99.

the number and salaries of the faculty and employes of the Agricultural and Mechanical College and of the Prairie View Normal School, and the receipts and expenditures, itemized, of each of these institutions, in the same manner as the law requires the board of regents to report the salaries and number of the faculty and employes, and the receipts and expenditures of the University of Texas.

Prairie View State Normal School.

For the maintenance of forty-six students.....	\$10,000	\$10,000
For the maintenance and support of the agricultural and mechanical department.....	2,500	2,500
For the maintenance and support of the girls' industrial department	350	350
Books and stationery.....	100	
Erection of one barn.....	1,000	
Water supply, wells and tanks.....	1,500	
Repairing and painting houses.....	250	250

Adjutant General's Office.

Salary of Adjutant General.....	\$2,000	\$2,000
Salary of chief clerk.....	1,100	1,100
Salary of porter.....	300	300
Salary of custodian of Camp Mabry.....	180	180
Stationery, postage and telegraphing.....	400	400
Incidental expenses	25	25
Handling of ordnance and quartermaster stores and clothing, labor in arsenal, and repairs of arms..	250	250
Inspection of arms and troops.....	250	250
Protection of the frontier, and suppression of lawlessness and crime.....	25,000	25,000
Payment of the Volunteer Guard when called into active service under the law, including transportation of troops, and for all other military expenses	5,000	5,000
Book cases for preservation of war records and maps.	100	

Public Printing.

For first, second and third classes of printing and binding, and for printing papers for first and second classes of public printing.....	\$20,000	\$20,000
For publishing supreme court reports, three volumes	4,000	2,000
For publishing Court of Criminal Appeals reports, three volumes	4,000	2,000
Publishing Court of Civil Appeals reports, six volumes.	6,000	6,000
For salary of expert printer and secretary for the State Printing Board, who shall perform such		

	Year ending—	
	Feb. 28, '98.	Feb. 28, '99.
other duties as the Board may require of him....	\$1,500	\$1,500
For publishing Constitutional Amendments, proposed by the Twenty-fifth Legislature, or so much thereof as may be necessary.....	17,000	
(For printing for educational department, as follows, the distribution to be made by the department of education:)		
Printing and distributing county superintendent's record books, treasurers' record books and blank forms ..	1,100	1,100
Printing and distributing scholastic census blanks, teachers' daily registers, trustees' reports and other blank forms for the use of school officers, teachers and trustees	1,750	1,750
Printing and distributing school laws, courses of study, examination questions, circulars to school officers and teachers, and other matter for the advancement of education	875	500

Live Stock Sanitary Commission.

For expenses of Live Stock Sanitary Commission...	\$4,000	\$4,000
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Public Buildings and Grounds.

Salary of superintendent.....	\$1,500	\$1,500
Salary of bookkeeper.....	550	550
Salary of engineer.....	1,200	1,200
Salary of assistant engineer, who shall perform all work required of him by the superintendent.....	720	720
Salaries of four watchmen.....	2,640	2,640
Salaries of two firemen.....	1,200	1,200
For traveling and other necessary expenses of Superintendent when away from Austin on official business ..	200	200
Salaries of four cleaners	1,440	1,440
Salary of elevator man.....	720	720
Labor in capitol grounds and keeping sewer in repair ..	700	700
Keeping cemetery grounds.....	300	300
Headstones for Confederate veterans buried in the State cemetery	300	300
Headstones for Texas veterans buried in the State cemetery ..	100	100
Water, fuel, lights and contingencies.....	9,000	9,000
Oil and waste for engines, dynamos and steam pumps, oil for wainscoting, drawing paper for plans, stationery, and oil for lamps.....	600	600
Repairs and painting for two years.....	2,500	2,500
Tools ..	100	100
For the purchase of one painting of ex Governor Hogg, painted by Mr. McArdle.....	250	

Sec. 2. It shall be unlawful for the superintendent or head of any of the foregoing departments of the State government or public institutions herein provided for to draw out of the State treasury all or any part of the money for the maintenance of his respective department or institution and deposit the same in a local bank to his own private account; but said amounts herein before appropriated shall remain in the State treasury, and may be drawn or checked out by such heads of departments or superintendents of institutions monthly to pay salaries of employees, or whenever it may be needed to pay for supplies, repairs, improvements or any other thing permitted to be bought or had for the maintenance of such institution.

Sec. 3. The fact that the monthly expenses of the State government are due and it is important that the same be promptly paid creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and the same is hereby suspended, and that this act take effect from and after its passage.

Approved June 18, 1897.

Takes effect from and after its passage.

S. B. No. 18.]

CHAPTER 11.

An Act to amend Article 5051 of the Revised Civil Statutes of 1895, relating to county warrants and the payment of taxes and to repeal all laws in conflict herewith.

Section 1. Be it enacted by the Legislature of the State of Texas: That Article 5051 shall hereafter read as follows:

Article 5051. The taxes herein levied by this chapter are hereby made payable in the currency or coin of the United States; provided, that persons holding scrip issued to themselves for services rendered the county may pay their county ad valorem taxes in such scrip.

Sec. 2. All laws and parts of laws in conflict herewith are hereby repealed.

Sec. 3. The fact that but a few days of the special session remain for the consideration of bills, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this bill be put on its third reading and final passage.

Approved June 19, 1897.

Takes effect ninety days after adjournment.

S. B. No. 14.]

CHAPTER 12.

An Act to amend Sections 1069 and 1070 of the Revised Civil Statutes of the State of Texas, and to reduce the expenses of the State government.

Section 1. Be it enacted by the Legislature of the State of Texas : That Articles 1069 and 1070 of the Revised Civil Statutes of the State of Texas be so amended as to hereafter read as follows :

Article 1069. Whenever any case or cases, civil or criminal, are pending in which the district judge is disqualified from trying the same, no change of venue shall be made necessary thereby; but the judge presiding shall immediately notify that fact to the Governor, whereupon the Governor shall designate some district judge in an adjoining district to exchange and try such case or cases, and the Governor shall also notify both of said judges of such order, and it shall be the duty of said judges to exchange districts for the purpose of disposing of such case or cases, and in case of sickness or other reasons rendering it impossible to exchange, then the parties or their counsel shall have the right to select or agree upon an attorney of the court for the trial thereof.

Article 1070. Whenever a special judge is agreed upon by the parties for the trial of any particular cause, as above provided, the clerk shall enter in the minutes of the court, as a part of the proceedings in such cause, a record showing :

1. That the judge of the court was disqualified to try the cause; and
2. That such special judge (naming him) was by consent agreed upon by the parties to try the cause; and
3. That the oath prescribed by law has been duly administered to such special judge.

Sec. 2. That all laws and parts of laws in conflict with this act be and the same are hereby repealed.

Sec. 3. The fact that under the present law there is a heavy annual expense entailed upon the State for the payment of special judges which could be avoided by the regular district judges exchanging districts, creates an emergency and an imperative public necessity requiring that the constitutional rule requiring all bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved, June 19, 1897.

[Note.—The foregoing act passed the Senate, vote not given; and passed the House, vote not given.]

H. B. No. 30.]

CHAPTER 13.

An Act to fix the venue and regulate proceedings in prosecutions for murder by mob violence; define and punish murder by mob violence; provide for the suspension and removal of sheriffs, deputy sheriffs, constables, chiefs of police, city marshals and other officers who permit it; and fix the venue and regulate proceedings in such cases.

Section 1. Be it enacted by the Legislature of the State of Texas: That whenever two or more persons shall combine together for the purpose of mob violence, and in pursuance of said combination shall unlawfully and wilfully take the life of any reasonable creature in being by such violence, such person shall be deemed guilty of murder by mob violence, and upon conviction thereof shall be punished by death or confinement in the penitentiary for life, or according to the degree of murder, to be found by the jury; provided, nothing in this section shall be so construed as to in any way affect the law in regard to manslaughter, as defined in Chapter 14, Title 15, of the Penal Code of the State of Texas.

Sec. 2. It shall be the duty of the district judges of the State to give this law specially in charge to the grand jury at the beginning of each term of court. Prosecutions for murder under this act may be commenced and carried on in any county of the judicial district in which the offense is committed, except the county of the offense, or in any county of the judicial district the judge of which resides nearest the county seat of the county in which the offense is committed. When the judicial district comprises only one county, prosecutions may be commenced and carried on in any adjoining county.

Sec. 3. If any sheriff, deputy sheriff, constable, chief of police, city marshal or other officer in this State shall permit or suffer any person in his custody charged with crime to be killed by one or more persons, or shall permit or suffer any such person to be taken from his custody and killed by one or more persons, he shall be deemed guilty of official misconduct, and removed from office; and the custody of a deputy shall be the custody of his principal. Proceedings to remove such officer from office may be commenced and carried on in any county named in Section 2 of this act. Said proceedings for the removal of said officers shall be conducted by the attorney general or under his direction in the name of the State of Texas, and shall be commenced by filing in the district court of the proper county a petition which shall be addressed to the judge of the court in which it is filed, and shall set forth in plain and intelligible language the facts as grounds of removal.

Sec. 4. After the filing of such petition, citation to the defendant shall issue as now provided by law in other civil cases. The trial and all the proceedings connected therewith shall be conducted as far as it is practicable in accordance with the rules and practices of the court in other civil cases; and appeals and writs of error may be sued out by either party to all appellate courts, as in other civil cases; provided, such cases shall take precedence in all courts of all other cases.

Sec. 5. The petition provided for in Section 3 shall be filed by the attorney general, or under his direction, as soon as practicable after he shall be informed of the facts, and within ten days after the same shall have been filed he shall make application to the district judge to whom it is addressed to [have] the officer against whom it is filed suspended tem-

porarily from office. Five days' notice of this application shall be given to the defendant, and, upon the hearing of such application, if it shall appear that the defendant permitted any person in his custody charged with crime to be killed by one or more persons, or permit or suffer any such person to be taken from his custody and killed by one or more persons, the judge shall forthwith suspend the defendant temporarily from office and appoint for the time being some other person to discharge the duties of the office, which person shall, before assuming the duties of the office, execute a bond in such sum as the judge may name, with at least two good and sufficient sureties, on such conditions as the judge may impose, to pay the defendant all damages and costs that he may sustain by reason of such suspension from office in case it should appear that the cause of removal is insufficient or untrue.

Sec. 6. In the trial of the case, the judge shall not submit special issues, but shall, under a proper charge applicable to the facts of the case, instruct the jury to find from the evidence whether the cause of the removal set forth in the petition is true in point of fact. Should the jury find that said cause of removal is true, judgment of ouster shall be entered against the defendant, and he shall not thereafter be elected or appointed to said office.

Sec. 7. All laws and parts of laws in conflict herewith are hereby repealed.

Sec. 8. The fact that there is no adequate law in this State for the suppression of mob violence, creates an emergency and an imperative public necessity that the constitutional rule requiring all bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved, June 19, 1897.

[Note.—The foregoing act passed the House; passed the Senate with amendments; and the House concurred in Senate amendments. Vote not given in either house.]

H. B. No. 31.]

CHAPTER 14.

An Act to define the Thirty-eighth Judicial District and prescribe the times of holding District Courts in the various counties thereof.

Section 1. Be it enacted by the Legislature of the State of Texas: That an act of the Twenty-fourth Legislature of the State of Texas, approved April 16, 1895, entitled an act to amend Section 1, Chapter 29, of an act passed at the regular session of the Twenty-third Legislature of the State of Texas, approved March 15, 1893, entitled an act to amend Section 38, Chapter 141, of an act passed at the regular session of the Twenty-first Legislature of the State of Texas, approved March 30, 1889, entitled an act to amend Chapter 61, an act entitled an act to amend Section 38 of an act entitled an act to redistrict the State into judicial districts and fix the times for holding courts therein, and to provide for the election of judges and district attorneys in such districts at the next general election to be held on the first Tuesday after the first Monday in November, 1894, approved April 9, 1893, granting an extension of time for the holding of

the District Court of Comal county, extending the time for the holding of the District Court of Kerr county, be amended so as to hereafter read as follows:

Section 38. The Thirty-eighth judicial district shall be composed of the counties of Bandera, Kendall, Kerr, Medina and Uvalde, and the district courts shall be held as follows:

In the county of Bandera, on the first Mondays in March and September, and may continue in session two weeks.

In the county of Kendall, on the second Mondays after the first Mondays in March and September, and may continue in session two weeks.

In the county of Kerr, on the fourth Monday after the first Mondays in March and September, any may continue in session three weeks.

In the county of Medina, on the seventh Monday after the first Mondays in March and September, and may continue in session four weeks.

In the county of Uvalde, on the eleventh Monday after the first Mondays in March and September, and may continue in session until the business is disposed of.

Sec. 2. All laws and parts of laws in conflict with this act are hereby repealed.

Sec. 3. The near approach of the end of the session, and the fact that one county has been taken out of the Thirty-eighth district, thereby causing a hiatus in the scheme for holding the district courts in said district, creates an emergency and an imperative public necessity demanding the suspension of the rule requiring bills to be read on three several days in both houses, and said rule is hereby suspended, and it is further enacted that this act shall be in force and shall take effect from and after its passage.

Approved, June 21, 1897.

[Note.—The foregoing act passed the House by a two-thirds vote, yeas 91, nays 1; and passed the Senate by a two-thirds vote, yeas 23, nays none.]

S. B. No. 22]

CHAPTER 15.

An Act to fix the fees of county and district clerks, for recording returns, and to amend Section 10, of Substitute House bill for House bills Nos. 6 and 19, passed at the first special session of the 25th Legislature of the State of Texas, being a bill entitled, "An Act to fix certain civil fees to be charged by certain county and precinct officers, and to fix and limit the fees and compensation of clerks of the district court, district attorneys, county attorneys, sheriffs and constables in felony cases, to be paid by the State, and to fix the compensation of assessors and collectors of taxes, and to limit and regulate the compensation of the sheriff, clerk of the county court, county judge, district and county attorney, clerk of the district court, assessor and collector of taxes, justices of the peace and constables, and to prescribe penalties for the violation of this act, and to repeal all laws in conflict herewith," relating to the excess of the fees collected by certain county officers over the maximum allowed them.

Section 1. Be it enacted by the Legislature of the State of Texas: That hereafter Section 10, of the substitute House bill for House bills Nos. 6 and 19, passed at the first special session of the 25th Legislature of the State of Texas, being a bill entitled "An act to fix certain civil fees to be

charged by certain county and precinct officers, and to fix and limit the fees and compensation of clerks of the district court, district attorneys, county attorneys, sheriffs and constables in felony cases, to be paid by the State, and to fix the compensation of assessors and collectors of taxes, and to limit and regulate the compensation of the sheriff, clerk of the county court, county judge, district and county attorneys, clerk of the district court, assessor and collector of taxes, justices of the peace and constables, and to prescribe penalties for the violation of this act, and to repeal all laws in conflict herewith," shall be amended so as hereafter to read as follows, to-wit:

Section 10. That hereafter the maximum amount of fees of all kinds that may be retained by any officer mentioned in this section as compensation for services shall be as follows: County judge, an amount not exceeding \$2000 per annum; clerk of the county court, an amount not exceeding \$2000 per annum; county attorney, an amount not exceeding \$2000 per annum; district attorney, an amount not exceeding \$2500 per annum, inclusive of the \$500 allowed by the Constitution and paid by the State; clerk of the district court, an amount not exceeding \$2000 per annum; collector of taxes, an amount not exceeding \$2000 per annum; assessor of taxes, an amount not exceeding \$2000 per annum; justices of the peace, an amount not exceeding \$1500 per annum; constables, an amount not exceeding \$1200 per annum; and in addition thereto one-fourth of the excess of fees collected by the said officers, respectively; provided, that this act shall not apply to justices of the peace and constables, except those holding office in cities of more than 15,000 inhabitants, to be determined by the next preceding city election on the basis of five inhabitants for each vote cast at such election; provided, that up to 1902, in counties in which there were cast at the last presidential election as many as 5000 votes, and thereafter any counties shown by the national census of 1900 to contain as many as 25,000 [inhabitants], the following amounts shall be allowed, viz.: County judge, an amount not exceeding \$2250 per annum; clerk of the county court, an amount not exceeding \$2250 per annum; county attorney, an amount not exceeding \$2250 per annum; district attorney, an amount not exceeding \$2500 per annum, inclusive of the \$500 allowed by the Constitution and paid by the State; clerk of the district court, an amount not exceeding \$2250 per annum; collector of taxes, an amount not exceeding \$2250 per annum; assessor of taxes, an amount not exceeding \$2250 per annum, and in addition thereto one-fourth of the excess of the fees collected by the said officers, respectively; provided, further, that in counties containing a city of over 25,000 inhabitants, or in which there were cast at the last presidential election as many as 7500 votes, or by the census of 1900 shall contain as many as 37,500 inhabitants, the following amounts of fees shall be allowed, viz.: County judge, an amount not exceeding \$2500 per annum; clerk of the county court, an amount not exceeding \$2500 per annum; county attorney, an amount not exceeding \$2500 per annum; district attorney, an amount not exceeding \$2500 per annum, inclusive of the \$500 allowed by the Constitution and paid by the State; clerk of the district court, an amount not exceeding \$2500 per annum; collector of taxes, an amount not exceeding \$2500 per annum; assessor of taxes, an amount not exceeding \$2500 per annum; in addition thereto one-fourth of the excess of the

fees collected by the officers, respectively; provided, that the county attorney in those counties having no district attorney, where he performs the duties of district attorney, may receive the same compensation as provided for the district attorney; provided the maximum fixed for the compensation of the district attorney shall be construed to be the amount which that officer is authorized to retain of fees allowed such officers in his district, whether composed of one or more counties; provided, that in counties where a county judge acts as superintendent of public instruction, he shall receive such other salary as may be provided by the commissioners' court, not to exceed the sum of \$600 per annum. The last United States census shall govern as to the population of the cities.

Sec. 2. That the clerks of the district court shall hereafter receive the following fees for the following services: For recording return of any writs when any such return is required by law to be recorded, the amount of 50 cents; when the return exceeds 300 words, for each 100 words in excess of 300 words, ten cents.

Sec. 3. That the clerks of the county court shall hereafter receive for the following services the following fees: For recording return of any writ, when any such return is required by law to be recorded, 50 cents; where the return exceeds 300 words, for each 100 words in excess of 300 words, 10 cents.

Sec. 4. That all laws and parts of laws in conflict herewith be and the same are hereby repealed, it not being intended to affect any fees as prescribed by other laws, except where they conflict with this act.

Sec. 5. The near approach of the end of this special session, and the importance of correcting errors and omissions existing in the law, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this bill be put upon its third reading and final passage, and it is so enacted.

Approved, June 19, 1897.

[Note.—The foregoing act passed the Senate by a vote of yeas 20, nays 4, and passed the House by a vote of yeas 79, nays 14.]

S. B. No. 20.]

CHAPTER 16.

An Act to amend Article 3964 of the Revised Civil Statutes of the State of Texas, adopted A. D. 1895, providing for the manner of taking the scholastic census, and repealing Articles 3965, 3966, 3967, 3968, 3969, 3970 and 3971 of the Revised Civil Statutes of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas: That Article 3964, of the Revised Civil Statutes of the State of Texas, be so amended that it shall hereafter read as follows:

The scholastic census of each school district of this State shall be taken in the year 1898, and every year thereafter.

The county superintendent of public instruction shall, on the first day of January of each year, or as soon as practical thereafter, appoint one of the trustees of each school district, or some other qualified person, to take said census, who shall be known as the census trustee of the district.

It shall be the duty of the census trustee to take, between the first day of May and the first day of June after his appointment, a census of all the children that will be over eight and under seventeen years of age on the first day of the following September, and who are residents of the school district on said first day of May, and to make report under oath to the county superintendent on or before the first day of June next thereafter. In taking the said census he shall visit each home, residence, habitation and place of abode, and shall, by actual observation and interrogation, enumerate the children thereof in the following manner: He shall use for each parent, guardian or person having control of any such children a prescribed form showing the name, color and nationality of the person rendering such children, the name and number of the school district in which the children reside, and the name, sex, and date of birth of each child of which he is the parent or guardian, or of which he has control, and which child will be over eight and under seventeen years of age on the first day of September next following. The census trustee shall require such form to be subscribed and sworn to by the person rendering the children, and he is hereby authorized to administer oaths for this purpose.

When the census trustee or assessor visits any home or house or place of abode of a family and fails to find either the parent or any person having legal control, it shall be the duty of the census trustee to leave the prescribed census blanks for the use of parents at such home or place of abode, with a note to the parent or guardian having legal control of child or children, requiring that the form be filled out, sworn and subscribed to before the census trustee, or an officer authorized to administer oaths, and that the blank, when so filled out, shall be delivered by the parent or person having legal control of the child or children to the census trustee.

Every person having control of any child which will be over eight and under seventeen years of age on the first day of September next thereafter, and who, being requested by the census trustee to prepare said form giving the information required, or to give the information necessary to enable the trustee to prepare the same, shall refuse to do so, or shall refuse to make oath to said form when filled according to his statement of facts in regard to said children, or shall fail to return the form left at his home in his absence, as above required, shall be guilty of a misdemeanor, and upon conviction shall be fined not less than five nor more than ten dollars. And it shall be the duty of the census trustee at once to file with some justice of the peace of competent jurisdiction complaint against such person. Only children of the same family shall be listed on one form, and if one person has under his control children of different family name, he should use a separate form for each family name.

The census trustee shall arrange the forms for white and colored children separately in alphabetical order, according to the family name of the children reported thereon. He shall also make, on a prescribed form, separate census rolls for the white and colored children of his district, showing the name, age, sex and color of each child, and the name of the parent, guardian or person having control of said children by whom it is reported. He shall also make a summary of his rolls showing the number of children of each race that will be of the different ages from eight

to sixteen, inclusive, on the first day of the next September, which shall continue to be the scholastic age, as is now provided by law. He shall make oath to his rolls and summaries, and to the faithful and accurate discharge of his duties, deliver the rolls, together with the forms arranged in alphabetical order, to the county superintendent on or before June 1st next after his appointment.

Any census trustee who shall wilfully fail or refuse to obtain the necessary information in regard to any child which will be over eight and under seventeen years of age on the first day of September next thereafter, or who shall wilfully fail or refuse to include any child within said ages in his rolls, or shall wilfully make any false report, roll or summary, shall be guilty of false swearing, and shall be punished as prescribed by law for that offense. And if the county superintendent finds or believes that any census trustee has violated any duty required under this act, such county superintendent shall report said census trustee to the grand jury of the county at its next session after discovering such breach of duty. The rolls and summaries of the census trustee shall be preserved by the county superintendent in his office for three years after they are filed. The county superintendent shall make on prescribed form separate consolidated rolls for the white and colored children of his county, showing the name, age and sex of each, together with the number of the district in which it lives, and the name of the parent or guardian, arranging the names of the children according to the alphabetical order of their family names. In making these consolidated rolls, he shall scrutinize carefully the work of the census trustees, and shall have power to summon witnesses, take affidavits, and correct any errors he may find in any census trustee's roll, and he shall carefully exclude all duplicates. If he deems it necessary, he may reject any roll, and appoint another census trustee, to take the census of the district, in which case he shall not approve the warrant to pay the census trustee, whose work has been rejected, for his services. When the county superintendent has prepared his consolidated census roll, one for each race, he shall make a duplicate of each, and he shall make affidavit to the correctness of both originals and duplicates. The originals he shall, on or before July 1st, forward to the State superintendent of public instruction at Austin, and the duplicates shall be filed with the county clerk and become permanent records of his office. The county superintendent shall forward with his consolidated rolls an abstract on the prescribed form, under oath, showing the number of children of each race, of the different years of the school age and the total number of children of each race, and the total of both races in his county. In making his consolidated rolls and in investigating the work of any census trustee, the county superintendent shall refer to the forms and rolls of previous years, when necessary, and they shall be carefully preserved for this purpose.

The State superintendent shall have authority to investigate the census of any county, to correct errors, and in extreme cases when he believes gross errors have occurred, or that fraud has been practiced, he may, with the approval of the state board of education, reject any county's roll and require the census of the county to be retaken.

For their services, the census trustee shall receive four cents per capita of the children of scholastic age taken by him in country districts and three cents per capita in towns of 2500 inhabitants and upwards to 5000

inhabitants, and two cents per capita in cities of more than 5000 inhabitants, and the county superintendent shall receive one cent per capita of the scholastic population reported by him, but these amounts shall not be paid until the census of the county is accepted by the State superintendent, and shall be forfeited as follows: The trustee's compensation, if his work is rejected by the county superintendent, and the census of his district ordered retaken, and both the county superintendent's and the trustee's compensation, if the census of the county is rejected and ordered by the State superintendent and the State board of education to be retaken.

The provisions of this act shall apply to the taking of the census of community counties, except that in such counties the assessor of taxes shall take the scholastic census of all the county except such portion thereof as may be organized into school districts and independent districts, and in his forms for parents and rolls, he shall show the justice precincts in which each child resides, instead of the school district as herein provided for district counties, and he may begin the work of taking the census at any time after the first day of January, instead of May, as herein provided, and the children shall be enrolled where they reside on the first day of January. The assessor shall have the same powers, shall perform the same duties, and shall be subject to the same penalties for any neglect, failure or breach of duty as are provided for census trustees of the districts.

The provisions of this act shall govern the taking of the scholastic census in cities and towns constituting independent districts, except as specially provided herein below, to-wit: The census trustee shall be appointed by the president of the board of trustees, or by the mayor in an independent district having no board of trustees, and a census trustee may be appointed for each ward or school subdistrict, at the discretion of the president of the school board or the mayor making such appointment. The forms for the parent and the rolls shall show the street and house number, or location of the house or place in which each child resides.

Sec. 2. All laws and parts of laws in conflict with this act are hereby repealed, and Articles 3965, 3966, 3967, 3968, 3969, 3970 and 3971, of the Revised Civil Statutes of 1895, are specially repealed.

Sec. 3. The crowded condition of the calendar and the near approach of the close of this session of the legislature, and the fact that the law is deficient in regard to enumerating the scholastic census, create an emergency requiring the suspension of the constitutional rule that all bills to be read on three several days, and that this bill be placed on its third reading and final passage, and it is so enacted.

Approved, June 23, 1897.

[Note.—The foregoing act passed the Senate, vote not given; and passed the House, vote not given.]

S. B. No. 23.]

CHAPTER 17.

An Act to regulate and limit the expenditure of State, county and local public school funds, and regulate treasurers' reports thereof.

Section 1. Be it enacted by the Legislature of the State of Texas: That public school funds hereafter shall not be expended except for the following purposes:

1. That State available school funds shall be used exclusively for the payment of teachers' and superintendents' salaries and fees for taking the scholastic census.

2. The county available school funds shall be used exclusively for the payment of teachers' and superintendents' salaries and for the payment of fees for taking the scholastic census.

3. Local school funds from district taxes, tuition fees of pupils not entitled to free tuition, and other local sources may be used for the purposes enumerated for State and county funds and for purchasing appliances and supplies, for the payment of insurance premiums, janitors and other employes, for buying school sites, buying, building, repairing and renting school houses, and for other purposes necessary in the conduct of the public schools, to be determined by the board of trustees, the account and vouchers for county districts and communities to be approved by the county superintendent; provided, that when the State available school fund in any city or county is sufficient to maintain the schools thereof in any year for at least eight months, and leave a surplus, such surplus may be expended for the purposes mentioned herein.

Sec. 2. All treasurers receiving or having control of any school funds, shall keep a full and separate itemized account with each of the different classes of school funds coming into his hands, and shall, on or before the first day of October of each year, file with the State Superintendent of Public Instruction an itemized report in duplicate of the receipts and disbursements of the school funds for the preceding school year ending August 31st, which report and duplicate shall be on the prescribed form furnished by the department of education, and the duplicate report, after examination by the State superintendent, shall be returned to the commissioners' court of the proper county for approval, and shall be accompanied by such objections or recommendations as the State superintendent may make in regard to the same. The State superintendent, in examining any report, may call for the vouchers and make such investigation of the correctness and legality of the different items as he may deem necessary, and when the duplicate is sent to the commissioners' court, all vouchers shall be presented to the court, and the present law in regard to treasurers' reports, except as hereinbefore modified, is hereby continued.

Sec. 3. All laws, general and special, in conflict with this act are hereby repealed.

Sec. 4. The near approach of the close of the special session, and the importance of providing some adequate method by which the public schools of the State may be supplied with the necessities for their proper conduct, creates an emergency and an imperative public necessity, that the constitutional rule requiring bills to be read on three several days be

suspended, and that this act take effect from and after its passage, and it is so enacted.

Approved, June 23, 1897.

[Note.—The foregoing act passed the Senate, vote not given; and passed the House, vote not given.]

H. B. No. 24.]

CHAPTER 18.

An Act to amend Article 5049 of Chapter 1, Title 104, of the Revised Statutes, relating to general occupation taxes.

Section 1. Be it enacted by the Legislature of the State of Texas: That Article 5049, of Chapter 1, Title 104, of the Revised Civil Statutes of 1895, shall hereafter read as follows:

Article 5049. There shall be levied on and collected from every person, firm, company or association of persons pursuing any of the occupations named in the following numbered subdivisions of this article, an annual occupation tax, which shall be paid annually in advance, except when herein otherwise provided, on every such occupation or separate establishment, as follows:

Subdivision 1. From every merchant whose annual purchases amount to less than two thousand dollars, three dollars; from every merchant whose annual purchases amount to two thousand dollars or less than five thousand dollars, six dollars; from every merchant whose annual purchases amount to five thousand dollars or less than ten thousand dollars, twelve dollars; from every merchant whose annual purchases amount to ten thousand dollars or less than fifteen thousand dollars, twenty dollars; from every merchant whose annual purchases amount to fifteen thousand dollars or less than twenty-five thousand dollars, twenty-five dollars; from every merchant whose annual purchases amount to twenty-five thousand dollars or less than fifty thousand dollars, sixty dollars; from every merchant whose annual purchases amount to fifty thousand dollars or less than one hundred and fifty thousand dollars, one hundred and twenty-five dollars; from every merchant whose annual purchases amount to one hundred and fifty thousand dollars or less than two hundred and fifty thousand dollars, one hundred and fifty dollars; from every merchant whose annual purchases amount to two hundred and fifty thousand dollars or less than five hundred thousand dollars, two hundred dollars; from every merchant whose annual purchases amount to five hundred thousand dollars or less than seven hundred and fifty thousand dollars, two hundred and fifty dollars; from every merchant whose annual purchases amount to seven hundred and fifty thousand dollars or more, three hundred dollars. Every person, firm, corporation or association of persons desiring to sell goods, wares or merchandise within this State shall, before pursuing such occupation, pay the tax for one year and take out a license to pursue the occupation of the merchant of the class to which he properly belongs, according to his annual purchases, as provided by law, and shall file with the tax collector an affidavit of the amount of his annual purchases for the past year, if previously engaged in such

business, or a part of a year, if engaged in such business less than a year, and also of the estimated amount of his annual purchases for the ensuing year. Said affidavit shall be filed and preserved by the tax collector as a part of the records of his office, and shall be in substance as follows, viz:

"The undersigned, as the representative of, doing business at, Texas, do solemnly swear that the estimate made of the annual purchases of said concern of goods, wares and merchandise for the next ensuing year does not exceed thousand dollars. I further swear that the annual purchases of said concern for the past months did not exceed the sum of thousand dollars."

Said affidavit shall be signed and sworn to before some officer authorized to administer oaths, and for this purpose the tax collector of counties, cities and towns are hereby authorized to administer oaths.

Sub. 2. From every merchant who may remove from place to place and offer for sale "bankrupt stocks" of goods, or advertising "fire sales," or "water and fire damaged stocks for sale," for a limited period of time, there shall be collected one hundred dollars per month for the first month, or less than a month, for each and every place where such business is located; and for each additional month that such sales are continued, at any given place, said merchant shall pay an additional sum of twenty dollars; provided, that where they remain for six months in one place, in addition to the one hundred dollars charged for the first month, they shall pay an additional sum of ten dollars per month; and provided further, that if they remain in one place for the period of twelve months, they shall be required to pay, in addition to the one hundred dollars for the first month, the sum fixed in the preceding paragraph, according to class and amount of goods sold in one year.

Sub. 3. From every traveling person selling patent or other medicines, one hundred dollars; and no traveling person shall so sell until said tax is paid; provided, that this tax shall not apply to commercial travelers, drummers or salesmen making sales, or soliciting trade for merchants engaged in the sale of drugs or medicines by wholesale.

Sub. 4. From every fortune teller, ten dollars; from every clairvoyant or mesmerist, who plies his or her vocation for money, ten dollars for each and every county in which such vocation is carried on.

Sub. 5. From every person, firm or association of persons engaged in discounting or shaving paper, or engaged in business as money brokers or bankers, or dealers in stocks, securities or bills of exchange, or in buying or selling bonds, State, county or city warrants, or other claims against the State, an annual tax of fifty dollars.

Sub. 6. From every operator or owner of any daguerrean, photograph, or other like gallery, by whatever name called, an annual tax of ten dollars.

Sub. 7. From every auctioneer, an annual tax of ten dollars.

Sub. 8. From every keeper of a toll bridge, an annual tax of seven dollars.

Sub. 9. From every person, firm or association of persons following the occupation of ship brokers or ship agents, an annual tax of ten dollars.

Sub. 10. From every person, firm or association of persons selling on commission, ten dollars.

Sub. 11. From every land agent there shall be collected an annual tax of five dollars. The term "land agent" shall be construed to mean any person, firm or association of persons performing for compensation any of the following services; purchasing or selling real estate for others; purchasing or selling land certificates for others. But this term "land agent" shall not be construed so as to levy a tax upon an attorney in addition to the one hereinafter levied.

Sub. 12. From every person practicing law, and from every conveyancer or other person drawing deeds or other legal instruments for pay, five dollars; provided, that attorneys-at-law shall only pay county occupation tax in the county of his or their residence.

Sub. 13. From every physician, surgeon, oculist or medical or other specialist of any kind, traveling from place to place in the practice of his profession, an annual tax of fifty dollars; from every dentist, five dollars.

Sub. 14. From every local practicing physician, surgeon, veterinary surgeon, or any medical or surgical specialist, an annual tax of \$5.

Sub. 15. From every person or firm keeping a shooting gallery at which a fee is paid or demanded, an annual tax of thirty dollars in each county.

Sub. 16. From every person or firm keeping a knife, cane or doll rack, or any other device upon which rings are pitched, or at which balls are thrown, an annual tax of twenty-five dollars.

Sub. 17. From every billiard, pool table, or anything of the kind used for profit, twenty dollars; and any such table used in connection with any drinking saloon or other place of business where intoxicating liquors, cigars or other things of value are sold or given away, or upon which any money or other thing of value is paid, shall be regarded as used for profit.

Sub. 18. From any person or persons who shall sell pools on horse races or other contests, five dollars for each and every day they may so sell said pools.

Sub. 19. From every nine or ten pin alley or any other alley used for profit, by whatever name called, constructed or operated upon the principle of a bowling alley, and upon which balls, rings or other devices are used as substitutes thereof are rolled, without regard to the number of pins used, or whether pins are used or not, or whether the balls, rings or other device are rolled by hand or with a cue or any other device, one hundred dollars. Any such alley used in connection with any drinking saloon, or any drug store, or with any drug store where intoxicating liquors are sold, or given away, or upon which money or anything of value is paid, shall be regarded as used for profit.

Sub. 20. From all persons keeping or using for profit any hobby horse, flying-jenny, or device of that character, with or without name, fifteen dollars for each county wherein the same are kept or used.

Sub. 21. From every foot peddler, five dollars in each county in which he peddles. For every peddler with one horse or one pair of oxen, the sum of fifteen dollars in each county where he peddles; for every peddler with two horses or two pair of oxen, thirty dollars in each county in which he may pursue such occupation; for every peddler with sail or other boat in streams or along the coast of bays of this State, thirty dollars in each county in which he may pursue such occupation; provided, that any blind, deaf and dumb, or any wounded person who has lost a hand or foot

shall not be required to pay any tax for peddling; provided, that all ex-Confederate and ex-Federal soldiers who, from old age or other cause, may be incapacitated to do and perform manual labor, and who are actual residents of the State of Texas, and are not inmates of any soldiers' home, or drawing any pension from the United States or any State government, be and are hereby exempted from the payment of any such peddler's occupation tax; provided, such persons shall not be exempt from such peddlers' tax if employed in peddling for any other person or persons; nothing herein contained shall be so construed as to include traveling vendors of tin or earthen ware; provided further, that nothing herein contained shall be so construed as to include traveling vendors of literature exclusively religious in character, or traveling vendors of poultry, vegetables or other country produce exclusively, fruit and fruit trees exclusively, if raised or produced by the vendor or his family.

Sub. 22. From every theatre or dramatic representation for which pay for admission is demanded or received in towns or cities of 1500 inhabitants or less, one dollar; in towns and cities of 1500 and not over 3000, two dollars, in towns and cities of over 3000 and not less than 5000, three dollars; in towns and cities over 5000 and not over 10,000, four dollars, and in towns and cities of over 10,000 inhabitants, five dollars per day for every day they may perform; provided, that theatrical or dramatic representations given by performers for instruction only, or entirely for charitable purposes, shall not be herein included. Provided, however, that this tax shall not be collected where the performances are exhibited in regularly recognized opera houses of theatres, but in lieu of said tax the managers of said opera house or theatres shall pay an annual occupation tax of twenty-five dollars.

Sub. 23. From every circus where equestrian or acrobatic feats and performances are exhibited, for which pay for admission is demanded or received, for each performance or exhibition where an admission fee of one dollar is charged, two hundred and fifty dollars; for each performance or exhibition where admission fee of .75 cents is charged, two hundred dollars; for each performance where 50 cents or less is charged, one hundred dollars; provided, that the amount of fee charged for reserved seats shall be considered as a part of such admission fee; provided, that where there is a combination of circus and menagerie, or circus and other exhibitions, the highest tax fixed by this act for any division or department of the combination shall be collected; provided further, that every show or exhibition which advertises itself as a circus or menagerie, or a combination of circus and menagerie, shall be held and construed to be a circus or a menagerie or a circus and menagerie whether it be such or not.

Sub. 24. From every menagerie, wax-works museum, side show or exhibition, whether connected with a circus or not, where a separate fee for admission is demanded or received, ten dollars for every performance or exhibition in which fees for admission are received.

Sub. 25. From every exhibition where acrobatic feats are performed and an admission fee charged for profit, not connected with the circus or theatre, ten dollars for each performance.

Sub. 26. From every sleight of hand performance or exhibition of legerdemain, not connected with a theatre or circus, twenty-five dollars.

Sub. 27. From every person bringing off a fight between dogs and

bulls, or between bears and dogs, or between bulls and any other animals, or between dogs and dogs, five hundred dollars for each performance.

Sub. 28. From every cock-pit, when kept for profit, or upon which any money or anything of value is bet or paid, fifty dollars.

Sub. 29. From every menagerie, wax-works or exhibition of any kind where a separate fee for admission is demanded or received, ten dollars for every day on which fees for such admission are received; provided, that exhibitions by associations organized for promotion of art, science, charity or benevolence, shall be exempt from taxation; and provided further, that persons who form a museum composed entirely of the products of Texas shall have the right to exhibit the same for a fee without paying any occupation tax.

Sub. 30. From every concert where a fee for admission is demanded or received, two dollars; provided, that entertainments when given by the citizens for charitable purposes, or for the support or aid of literary or cemetery associations are exempt.

Sub. 31. From every livery or feed stable, thirty cents for each stall and thirty cents for each hack, buggy or other vehicle; and from every hack, buggy, dray, wagon or other vehicle let for hire not connected with a livery, feed or sale stable, two dollars; from every wagon yard used for profit, five dollars.

Sub. 32. From each and every person acting as general adjuster of losses, or agents of life, fire, marine and accidental insurance companies who may transact any business as such in this State, an annual occupation tax of fifty dollars. By "general agent," as used in this law, is meant any person or firm, representative of any insurance company in this State, or who may exercise a general supervision over the business of such insurance company in this State, or over the local agency thereof in this State, or any subdivision thereof; provided, that when such a general agent acts as a local agent, he shall pay an additional tax as a local agent, as hereinafter provided.

Sub. 33. From each and every person or firm acting as local agent or agents of life, fire, marine and accident insurance companies, who may transact any business as such in this State, an annual occupation tax of five dollars. By "local agent," as used in this law, is meant any person or firm who may solicit, contract for or receive premiums for insurance in this State, for any insurance company or companies, or who may deliver contracts or policies of insurance, including railway agents and employees who may solicit or receive premiums for accident insurance in this State.

Sub. 34. From each and every person or firm acting as local agent or agents of industrial life insurance companies, who may transact any business as such in this State, an annual tax of two dollars. By "industrial life insurance, as used in this law, is meant insurance adapted to the wants and necessities of the wage-earners, in that the policies are small and the premium collected weekly at the homes of the insured, the maximum policy or [of] insurance written on any one person being one thousand dollars.

Sub. 35. From every person, firm or association of persons, dealing in lightning rods, an annual tax of thirty-six dollars to the State and eighteen dollars as county tax to the county in which such business is carried on; and upon every person canvassing for the sale of lightning rods, an

annual tax of one hundred dollars to the State and fifty dollars as county tax, in each county in which such canvassing is done.

Sub. 36. From every person, firm or association of persons following the occupation of cotton broker, cotton factor, or commission merchant, in a city of ten thousand inhabitants or over, thirty-five dollars; and in all cities and towns of less than ten thousand inhabitants, an annual tax of eighteen dollars; provided, that a merchant who pays an occupation tax under this law shall not be considered as a cotton broker. A "commission merchant," in the meaning of this article, is every person, firm or association of persons, receiving country produce, horses, cattle, sheep, hogs, grain, corn, hay, lumber, shingles, wool, coal, goods, wares and merchandise, or anything else for sale, to be accounted for to the owner when sold, and charging a commission therefor.

Sub. 37. From every pawnbroker, an annual tax of one hundred and fifty dollars.

Sub. 38. From every cotton buyer or buyer of wool or hides, ten dollars; provided, that a merchant who pays an occupation tax, as herein prescribed, shall not be considered a cotton buyer or buyer of wool or hides.

Sub. 39. From every person, firm, agency, or association of persons dealing in sewing machines, an annual tax of fifteen dollars to the State and seven dollars as a county tax in every county where such business may be carried on; provided, that a merchant who pays an occupation tax, as required by this article, shall not be required to pay this special tax to sell sewing machines when sold in his place of business.

Sub. 40. From every person or firm who peddles out clocks, cooking stoves or ranges, wagons, buggies, carriages, surreys and other similar vehicles, washing machines and churns, an annual tax of two hundred and fifty dollars for the State, and one hundred dollars for each county in which they make a sale; provided, that a merchant who pays an occupation tax, as required by this article, shall not be required to pay this special tax for selling the articles named in this paragraph when sold in his place of business, or in the county in which his place of business is located.

Sub. 41. Each and every express company shall annually, on or before the first day of March, through its superintendent or other chief officer or authorized agent, file with the comptroller of public accounts a report under oath, showing the amount of charges and freights within this State paid to or uncollected by such companies on account of money, goods and merchandise carried within this State during the year ending December 31st next preceding, and said express companies, at the time of filing their required report, shall pay to the treasurer of the State one and one-half per cent of their gross receipts, as shown by their said report. The receipt of the State treasurer shall be evidence of the payment of such taxes, city or town corporation in this State; provided, that this article shall not be construed to prohibit the levy of State, county and municipal taxes upon the real and personal property of such companies. Each and every express company failing or refusing to file the report herein required, and pay the required taxes, shall forfeit to the State twenty-five dollars for each day said report and payment are delayed. For the purpose of suit to recover the taxes and forfeitures, venue and jurisdiction is hereby expressly conferred on the courts of Travis county, and

service upon any agent or officer of such company within this State shall in all respects be held legal and valid.

Sub. 42. From every person, firm or association of persons owning or running any railroad cars or steamboats in this State, there shall be collected quarterly, on the first day of January, April, July and October of each year, a tax of one per cent on their gross receipts from all their passenger travel within this State. The said gross receipts to be returned under oath by said owner, agents or manager to the comptroller, and said tax to be collected by said comptroller under such regulations as he may prescribe; provided, that nothing herein contained shall authorize the levy of any county or municipal tax upon such person, firm or association of persons.

Sub. 43. From every chartered telegraph company doing business in this State, there shall be collected one cent for every full rate message sent by any person, firm or association of persons within this State to any person within this State, and one-half that for any message less than a full rate message so sent. This tax to be paid quarterly to the comptroller on the sworn statement of the chief manager of said company or companies, or any other officer authorized by said companies to make said statement, who shall keep a record of such messages; and the receipt of the comptroller, under seal, shall be issued to said company or companies, certified copies of which shall be evidence of the payment of the State tax; provided, railroad messages for running their trains and for company use shall not be taxed; and provided further, that nothing herein contained shall authorize the levy or collection of any county or municipal tax upon such chartered companies for messages sent, and messages sent on official business by officers of the United States.

Sub. 44. From each gas company, manufacturing gas in towns and cities of ten thousand or more inhabitants, thirty-five dollars; in a city or town of less than ten thousand inhabitants, twenty dollars.

Sub. 45. From each electric light company operating an electric light plant in a town or city of ten thousand inhabitants or more, thirty-five dollars; in a city or town of less than ten thousand inhabitants, twenty dollars.

Sub. 46. From each water works company operating a water works plant in a town or city of ten thousand inhabitants or more, thirty-five dollars; in a city or town of less than ten thousand inhabitants, twenty dollars.

Sub. 47. From every person, firm or association of persons loaning money as agents or agents for any corporation, firm or association, either in this State or out of it, an annual occupation tax of one hundred and fifty dollars for the State, for the principal office, and a county tax of fifteen dollars from each agent for each county in which he may do business, and no additional occupation tax shall be levied by any county, city or town in this State.

Sub. 48. From each person, party, partnership or corporation engaged in the business of inquiring into and reporting upon the credit or standing of persons engaged in business in this State, or acting as agent or business manager in this State for any such person, party, partnership, joint stock association or corporation, three hundred dollars; and provided, further, that no county, city or town shall levy or collect any occupation tax upon or from any such person, party, partnership, joint

stock association or corporation. The payment of this tax, evidenced by the receipt of the comptroller of public accounts, shall exempt the company or party paying the same from the payment of this tax in any other county; and payment of such tax shall not be required of any subagent or correspondent of the party or company carrying on such business in this State.

Sub. 49. From each and every owner or keeper of any skating rink, used for profit, twenty-five dollars.

Sub. 50. From every manager of a base ball park in a city or town containing five thousand or more inhabitants, where an admission fee is charged, twenty-five dollars.

Sub. 51. From each owner or keeper of every steam laundry, ten dollars.

Sub. 52. From each person or corporation, who are wholesale dealers, selling imported or home-made ice to the trade to be sold again, in cities and towns of twenty thousand inhabitants, or more, fifty dollars; in cities and towns of less than twenty thousand inhabitants, or more than ten thousand inhabitants, thirty dollars; in cities and towns of less than ten thousand inhabitants, and more than five thousand inhabitants, twenty dollars; in cities and towns of less than five thousand inhabitants, ten dollars.

Sub. 53. From every owner or manager of every race track, one mile or more in length, used for profit, one hundred dollars; from each owner or manager of every race track, one-half mile or less in length, fifty dollars per annum; provided, this shall not apply to race tracks owned by private individuals and used only for training purposes, or in connection with agricultural fairs and expositions.

Sub. 54. From every street car company in this State, two dollars per mile on each mile of track owned by said company or corporation.

Sub. 55. From each owner or manager of every grain elevator doing business for fees or toll with a capacity of over one hundred thousand bushels, fifty dollars; on each owner or manager of every elevator with a capacity of fifty thousand bushels and not over one hundred thousand bushels, twenty-five dollars.

Sub. 56. From each owner or manager of every phonographic, electric battery, graphophone or other like machines or instruments, where a fee is charged, an annual tax of twenty-five dollars; provided, that when an electric battery is used by a regularly authorized physician on a patient no tax shall be charged.

Sub. 57. From each owner or keeper of every kinetoscope, cinetograph or similar machine or instrument used for profit, which shows the life-like motions of persons or animals, an annual occupation tax of twenty-five dollars.

Sub. 58. From each owner, manager or keeper of every panorama or view show, used for profit, exhibiting in a wagon, room, tent or elsewhere, an annual occupation tax of ten dollars and a county occupation tax of two dollars per annum. A panorama or view show in the meaning of this act is a show exhibiting pictures, statuary or other works of art which are viewed through stereoscopic or magnifying lenses.

Sub. 59. From every person, firm or association who are wholesale dealers in cotton seed oil or any of the products of cotton seed, selling such to the trade, a tax of twenty-five dollars; provided, that this tax

shall not apply to a merchant who sells other goods and merchandise and pays an annual occupation tax therefor.

Sub. 60. From each owner, manager or keeper of every show or company of persons giving exhibitions of music, songs, recitations, sleight of hand, gymnastic, dancing or other kinds of performances in a tent, house or elsewhere, which said exhibitions are used for profit by sale of medicines, electric belts or other articles of value, whether charge is made only for seats or not, an annual occupation tax of fifty dollars and a county occupation tax of two dollars and fifty cents for every such performance or exhibition. Provided, this tax shall not be assessed when these performances are given inside the grounds of any State or county fair during the time that said State or county fair is giving its annual exhibition.

Sub. 61. From every person, firm or association of persons selling on commission, if in a city of more than ten thousand inhabitants, fifty dollars; if in a city or town of less than ten thousand inhabitants, twenty-five dollars. This article is intended to cover every person, firm or association of persons selling on samples only, and who do not carry any stock of merchandise or anything else on hand; provided, that this tax shall not apply to commercial travelers or salesmen making sales or soliciting trade from merchants.

Sub. 62. From all dealers in cigarettes in this State, the sum of ten dollars per annum, a cigarette being within the meaning of this act the same as defined by the laws of the United States government; provided, that this tax shall be in addition to the occupation tax levied on merchants, and any other tax levied under the law; and provided, further that each dealer shall be required to procure an annual license from the county clerk of the county where he proposes to sell cigarettes which shall be granted for no shorter or longer period than one year; and provided, further, that the license shall describe the house and locality where the dealer proposes to sell cigarettes.

Sec. 2. For the purpose of suit to recover the taxes and forfeiture, venue and jurisdiction is hereby expressly conferred upon the courts of Travis county, and service upon any officer or agent of such company within this State shall in all respects be held legal and valid.

When the Comptroller furnishes collectors with blank occupation tax receipts he shall furnish the commissioners' court with the numbers and value of the receipts furnished to their respective collectors, and such courts shall charge their respective collectors with the number and such proportion of the value of the receipts so furnished, as shall apply to the county tax, when such collectors shall make their settlements with the Comptroller. The Comptroller shall furnish the commissioners' court with the numbers and value of the receipts returned, and with the amount of the occupation taxes collected by their respective collectors.

Sec. 3. Whereas, the occupation taxes collected are not adequate, and an imperative public necessity exists that they be in some instances increased, in order that the State may immediately derive benefit of the same, therefore, an imperative public necessity exists for the suspension of the constitutional rule requiring bills to be read on three several days in each house, and that the same take effect from its passage, and it is so enacted.

[Note.—The foregoing act passed the House by a vote of yeas 82, nays 15; passed the Senate with amendments by a two-thirds vote, yeas 22, nays 2; and the House concurred in Senate amendments, vote not given.]

[Note.—The foregoing act was presented to the Governor of Texas for his approval, an Sunday, the twentieth day of June, A. D. 1897, but was not signed by him nor returned to the house in which it originated within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. W. Madden, Secretary of State.]

Takes effect ninety days after adjournment.

H. B. No. 22.]

CHAPTER 19.

An Act to enforce the attendance of witnesses in criminal cases upon district courts, grand juries and magistrates sitting as examining courts, in counties other than that of their residence, under subpoena, and to provide for the punishment for disobedience of such subpoenas, and to repeal Articles 525, 526, 527, 528, 529, 530, 531, 532, 533 and 534, Title 7, Chapter 4, of the Code of Criminal Procedure of the State of Texas, adopted by the 24th Legislature, 1895, and all other laws and parts of laws in conflict with this act.

Section 1. Be it enacted by the Legislature of the State of Texas: Where a witness resides out of the county in which the prosecution is pending, the defendant shall be entitled on application, either in term time or in vacation, to the proper clerk or magistrate, to a subpoena issued to compel the attendance of such witness. Such application shall be in writing and under oath, shall state the name and residence of the witness, and his exact location and avocation, if known, and that his testimony is believed to be material to the defense. The State shall also be entitled to subpoenas under the provisions of this article upon the written application of the attorney representing the State, which application shall state the name and residence of the witness, and his exact location and avocation, if known, and that his testimony is believed to be material for the State.

Sec. 2. It shall be the duty of the officer receiving said subpoena to execute the same by delivering a copy thereof to the witness or witnesses therein named, and he shall make due return of said subpoena showing therein the time and manner of executing the same, and if not executed, such return shall show why not executed, the diligence used to find said witness, and such information as the officer has, if any, as to the whereabouts of said witness.

Sec. 3. When a subpoena is returnable forthwith, it shall be the duty of the officer to immediately serve the witness with copy of the same, and it shall be the duty of said witness to immediately make his appearance before the court magistrate or other authority issuing the same; and if said witness make affidavit of his inability from lack of funds to appear in obedience to said subpoena, it shall be the duty of the officer executing the same to provide said witness, if said subpoena be issued in a felony case, with the necessary funds or means to appear in obedience to said subpoena, taking his receipt therefor, and showing in his return

on said subpoena under oath the amount furnished to said witness, together with the amount of his fees for executing said subpoena, and such officer shall be entitled to receive from the State, for executing such process, the sum of fifty cents for serving each witness, and five cents per mile for each mile actually traveled in the execution of the same.

Sec. 4. It shall be the duty of the clerk of the court, the magistrate, or the foreman of the grand jury, issuing said process, immediately upon the return of said subpoena, if issued in a felony case, to issue to such officer a certificate for the amount furnished such witness, together with the amount of his fees for executing the same, showing the amount of each item, which certificate shall be approved by the judge of the district court, and recorded by the clerk of the district court in a well bound book kept for that purpose, and said certificate transmitted to the officer executing such subpoena, which amount shall be paid by the State as costs are paid in other criminal matters.

Sec. 5. Witnesses shall receive from the State for attendance upon district courts, magistrates sitting as examining courts, and grand juries in counties other than that of their residence, in obedience to subpoenas issued under the provisions of this act, such compensation as is now received by witnesses attending such, under attachment, to be paid as now provided by law, and such magistrate, foreman of the grand jury or clerk of the district court, shall issue to such witness a certificate therefor after deducting therefrom the amount advanced by the officer serving said subpoena, as shown by the return on said subpoena, which certificate shall be approved by the district judge, and recorded by the clerk in a well bound book kept for that purpose; provided, that when an indictment can be found from the evidence taken before an inquest or examining trial, no subpoena or attachment shall issue for a witness who resides out of the county in which the prosecution is pending to appear before a grand jury; and provided further, that when the grand jury shall certify to the district judge that sufficient evidence can not be secured upon which to find an indictment except upon the testimony of non-resident witnesses, the district judge may have subpoenas issued as provided for in this act to other counties for witnesses to testify before the grand jury not to exceed one witness to any one fact nor more than three witnesses to any one case pending before the grand jury.

Sec. 6. If the subpoena be returnable at some future date, the officer shall have authority to take a good and sufficient bail bond of such witness, for his appearance under said subpoena, which bond shall be returned with such subpoena, and shall be made payable to the State of Texas, in the amount in which the witness and his surety shall be bound, and conditioned for the appearance of the witness at the time and before the court, magistrate or grand jury named in said subpoena, and shall be signed by the witness and his sureties; but if said witness refuse to give bond he shall be kept in custody until such time as he shall start in obedience of said subpoena, when he shall be, upon affidavit being made, provided with funds necessary to appear in obedience of said subpoena.

Sec. 7. The court or magistrate issuing said subpoena may direct therein the amount of the bond to be required, but in case the amount is not specified, the officer may fix the amount, and in either case shall require good and sufficient security, to be approved by himself.

Sec. 8. If a witness refuse to obey a subpoena as herein provided, he shall be fined by the court or magistrate in any sum not exceeding five hundred dollars, which fine and judgment shall be final unless set aside after due notice to show cause why it should not be final, which notice may immediately issue requiring the defaulting witness to appear at once or at the next term of said court, in the discretion of the judge, to answer for such default, and the court may, in his discretion, cause to be issued at the same time an attachment for said witness, directed to the proper county, commanding the officer to whom said writ is directed to take said witness into custody and have him before said court at the time named in said writ; in which case such witness shall receive no compensation unless it appears to the court that such disobedience is excusable, when the witness may receive the same compensation as if he had been attached; and said fine and all costs thereon shall be collected as in criminal cases; provided, that said fine and judgment may be set aside at the same or any subsequent term of the court or in vacation for good cause shown, after the witness shall have testified or been discharged.

The following words shall be written or printed on the face of such subpoena: "A disobedience of this subpoena is punishable by fine not exceeding five hundred dollars, to be collected as fines and costs in other criminal cases."

Sec. 9. That Articles 525, 526, 527, 528, 529, 530, 531, 532, 533 and 534, of Title 7, Chapter 4, of the Code of Criminal Procedure of the State of Texas adopted by the 24th legislature, 1895, be and the same are hereby repealed, and that all other laws and parts of laws in conflict with this act be and the same are hereby repealed.

Approved, July 3, 1897.

Takes effect ninety days after adjournment.

THE STATE OF TEXAS,
Department of State.

I, J. W. Madden, Secretary of State of the State of Texas, certify that the foregoing laws, passed by the first special session of the Twenty-fifth Legislature, have been carefully examined and compared with the original enrolled bills, now on file in this department, and are true copies thereof.

I further certify that the said first special session of the Twenty-fifth Legislature convened in the city of Austin on the twenty-second day of May, A. D. 1897, and adjourned on the twentieth day of June, A. D. 1897.

In testimony whereof, I have subscribed my name and
[Seal.] have hereto affixed the seal of the State of Texas, in the City of Austin, this August 4, A. D. 1897.

J. W. MADDEN,
Secretary of State.

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